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NHNG TPR 630

***Technician Personnel Regulation 630**

**Joint Headquarters
New Hampshire National Guard
4 Pembroke Road
Concord, NH 03301
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Hours of Duty, Attendance and Leave

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Summary of Changes. Title 5 United States Code, Title 5 Code of Federal Regulation and NGB Technician Personnel Regulation (TPR)990-2 contain the provisions that govern leave and absence for National Guard technicians. This regulation is a compilation of these provisions for use by technicians of the New Hampshire Army National Guard and New Hampshire Air National Guard. This regulation adds the provisions of Family Medical Leave, the Voluntary Leave Transfer Program, and simplifies procedures for State Active Duty. This regulation also clarifies compensatory time while traveling and co-mingling leave.

Applicability. This regulation applies to all New Hampshire Army and Air National Guard technicians, and is intended for internal management use only.

Supplementation. Do not supplement this regulation or establish command without prior approval from NHAG-HR.

Suggested Improvements. Users of this regulation are invited to send comments and suggested improvements directly to NHAG-HR, State Military Reservation, 4 Pembroke Road, Concord, New Hampshire 03301-5652.

*This regulation supercedes NHNG TPR 610-630, dated 16 June 1989 and NHNG TPR 630A, dated 1 November 1995.

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CHAPTER 1 GENERAL

1-1. *Purpose and Scope*

This regulation describes and explains hours of work and the various types of leave in the Federal service. The basic statute governing leave and hours of work is Title 5, United States Code, Chapters 61 and 63. More detailed and comprehensive coverage is found in 5 Code of Federal Regulations (CFR) Parts 610 and 630 as well as NGB Technician Personnel Regulation (TPR) 990-2. The intent of this regulation is to collect provisions applicable to NHNG technicians and make them readily available.

1-2. *General Policy*

a. The authority to approve or disapprove leave is the responsibility of immediate supervisors who best know whether the time off requested is compatible with the situation. Authority to approve leave requests is accompanied by the responsibility for verifying that leave granted is legal and justifiable.

b. Earned leave - Generally, an employee must be employed during a full bi-weekly pay period to earn leave. He is considered to have been employed for a full period, if he is on the rolls on all days falling within the pay period, exclusive of holidays and non-workdays. When an employee's service is interrupted by a non-leave-earning period, the employee earns leave on a pro rated basis for each fractional pay period that occurs within the continuity of his employment. Appendix B of this regulation is a matrix for leave proration for fractional pay periods.

c. Labor-Management Agreements - It is understood that properly executed Labor-Management agreements take precedence over the contents of this regulation.

1-3. *Definitions*

a. "Accrued leave" means leave earned by an employee during the current leave year that is unused at any given time in that leave year.

b. "Accumulated leave" means the unused leave remaining to the credit of an employee at the beginning of a leave year.

c. "Contagious disease" means a disease requiring isolation of the patient, quarantine, or restriction of movement by health authorities.

d. "Excused absence" means an absence from duty administratively authorized without loss of pay and without charge to leave.

e. "Leave year" means the period beginning with the first day of the first complete pay period in a calendar year and ending with the day immediately before the first day of the first complete pay period in the following calendar year.

f. "Medical certificate" means a written statement signed by a registered practicing physician or other practitioner, certifying to the incapacitation, examination, treatment, or the period of disability.

CHAPTER 2 HOURS OF DUTY

2-1. *Work Schedules*

a. Fulltime employees will be scheduled for a total of 80 hours per pay period.

b. Part-time employees will be scheduled for no less than 32 and no more than 64 hours per pay period.

c. Each organization will adhere to the schedule as it appears below (see NHNG TPR 630-10):

(1) Army:

(a) 5 x 4 x 9 alternate work schedule.

Employees will work Monday thru Friday the first week of all pay periods. Monday through Thursday will be nine hours of duty plus lunch. The first Friday of the pay period will be an eight hour day. The second Monday of each pay period is the AWS day off. Tuesday through Friday of the second week are all nine hour days.

(b) 10 x 8 standard schedule. Employees will work Monday through Friday of both work weeks, eight hours each day.

(2) Air:

(a) 5 x 4 x 9 alternate work schedule. The AWS

Committee will develop a calendar for the following leave year that designates two workdays during each pay period as AWS days. The calendar will designate one day per pay period as an eight hour day for employees on the compressed work schedule. The remaining days of the pay period will consist of nine

hour days. Regardless of the AWS days designated, the pay period will total not less than 80 hours.

(b) 10 x 8 standard schedule. Employees will work Monday through Friday of both work weeks, eight hours each day.

(c) The ANG Command Post is authorized to work six, twelve hour days and one eight hour day per pay period.

d. Employees in a travel, training, or detail status will adhere to the tour of duty hours of the organizational segment to which they are temporarily assigned.

2-2. Hours Of Work

a. The Air Commander, CAO, Directors, and Brigade AO's/ Commanders will establish the duty hours for their areas of responsibility. All hours of duty will be between the hours of 0630 and 1730 hours. Each individual responsible for establishing the duty hours will submit their schedule to the HRO office.

b. Flextime is not authorized.

c. Lunch periods are established by supervisors and are limited to 30 minutes. Organizations may extend the 30 minute lunch period, not to exceed 60 minutes, by adding the additional time to the beginning or end of the duty day and adjusting the start/stop times. Supervisors should coordinate with HRO and obtain approval from the director or higher level authority prior to enacting this change. When time off for lunch is not possible due to mission or manning requirements, a lunch period of twenty minutes or less may be counted as time worked for which compensation is allowed.

d. Supervisors may authorize short rest periods during the daily tour, when such periods are beneficial or necessary for technician health, safety, and productivity. Rest periods are considered duty time and are included in the daily tour of duty.

Rest periods granted will conform to the following conditions:

(1) The rest period will not exceed 15 minutes during each 4 hours of continuous work.

(2) If the period from the beginning of a technician's daily tour to the lunch period is less than 4 hours, a rest period is not authorized. If the period

from the end of the lunch period to the end of the technician's daily tour is less than 4 hours, a rest period is not authorized.

(3) The rest period may not be a combination of the lunch period.

e. Variation for educational purposes. The Adjutant General (or designee) may authorize a rescheduling of the customary workweek to allow employees to take courses in nearby colleges, universities, or other educational institutions when the rescheduling does not appreciably interfere with the accomplishment of the work to be performed. The employee is still responsible for a full 40-hour workweek and no premium pay will be paid solely because of the rescheduling. While the courses need not be directly related to the work of the agency, they should be such that will equip the employee for more effective work in the agency.

2-3. Night Shifts

Technicians assigned to a regularly scheduled night shift will receive differential pay as follows:

a. General Schedule:

(1) General Schedule technicians on a regularly scheduled tour of duty for not less than one week are entitled to night differential pay for the hours worked (scheduled) between the hours of 6:00 p.m. and 6:00 a.m. The rate of pay is the regular rate plus ten percent.

(2) Payment of night shift differential will continue for General Schedule technicians for regularly scheduled night hours when the technician is absent due to a holiday or other non-workday or is in an official travel status. It continues during short periods of paid leave, i.e., periods of less than eight hours of paid leave, inclusive of night and day hours, during the pay period. Payment of night differential is not authorized for any periods of leave when the total leave in a pay period is eight hours or more.

b. Federal Wage System Technicians (WS/WG/WL):

(1) A Federal Wage System technician on a regularly scheduled tour of duty not less than one week is entitled to pay at his scheduled rate plus a differential of seven and one-half percent of his

scheduled rate for regularly scheduled non-overtime work when a majority of his work (5 hours or more) occurs between 3:00 p.m. and midnight, or ten percent of his scheduled rate if the majority of his work hours occurs between 11:00 p.m. and 8:00 a.m. The differential pay will be paid for the entire shift when a majority (5 hours or more) of the technician's hours fall between the hours above.

(2) A Federal Wage System technician regularly scheduled to a night shift for which the night shift differential is payable, is entitled to the night shift differential for periods of excused absence on a holiday, while in official travel status during the hours of his regular night shift, or on court leave.

(3) The night differential payable during periods of leave with pay.

(a) A technician regularly assigned to a night shift shall be paid a night shift differential during a period of leave with pay.

(b) A technician regularly assigned to a day shift who is temporarily assigned to a night shift shall be paid a night shift differential for any leave with pay taken when scheduled to work night shifts.

(c) A technician assigned to a regular rotating schedule involving work on both day and night shifts shall be paid a night shift differential only for any leave with pay taken when scheduled to work night shifts.

(d) A technician who is not regularly assigned to a day shift or a night shift but whose shift is changed at irregular intervals shall be paid a night shift differential during leave with pay if the employee received a night shift differential for the last shift worked preceding leave with pay.

(4) Wage Grade Technicians regularly assigned to the night shift, and temporarily assigned (in writing) to another shift with higher differential rate, will receive the higher shift rate. Similarly, a technician regularly assigned to a night shift is entitled to a night shift differential for any period during which they are temporarily assigned (in writing) to work a day shift. In both these instances, an SF Form 50 and/or a HR approved schedule must be issued.

c. Requests for night differential must be submitted in writing through channels to the Human Resources Office.

CHAPTER 3 ANNUAL LEAVE

3-1. *Eligible Employees*

All permanent and indefinite employees are eligible for annual leave. Temporary employees who are appointed to positions over 90 days are entitled to earn annual leave upon completion of the first biweekly pay period. Temporary employees who are appointed for 90 days or less are not entitled to annual leave. However, when temporary appointments of less than 90 days cumulatively exceed 90 days, without a break in service, the technician is entitled to annual leave. In such cases the technician accrues leave retroactively to the effective date of the initial appointment. A break in service occurs anytime an employee is not on the Government's employment rolls for a period of more than three calendar days.

3-2. *Earning Of Annual Leave*

a. Full time employees earn leave during each full biweekly pay period while in a pay status or in a combination of a pay status and non-pay status. Part time employees who are in a pay status in excess of their basic working hours in a pay period receive no credit for the excess hours when computing leave earnings.

b. Employees must be employed for the full bi-weekly pay period to be entitled to accrue annual leave for that period.

c. Full time and part time employees who change to an intermittent work schedule during the pay period are eligible to have their leave accruals prorated. See Appendix B for proration.

d. Full-time employees will earn annual leave as follows:

(1) Employees with less than three years of service earn four hours annual leave for each biweekly pay period.

(2) Employees with three but less than 15 years of service earn 6 hours of annual leave for each biweekly pay period except for the last full pay period of the calendar year when they earn 10 hours of annual leave.

(3) Employees with 15 years or more of service earn 8 hours of annual leave for each full biweekly pay period.

e. Part-time employees will earn annual leave as follows:

(1) An employee with less than 3 years of service earns 1 hour of annual leave for each 20 hours in a pay status.

(2) An employee with 3 but less than 15 years of service earns 1 hour of annual leave for each 13 hours in a pay status.

(3) An employee with 15 years or more of service earns 1 hour of annual leave for each 10 hours in a pay status.

3-3. Creditable Service

The following types of service are creditable for determining the leave earning category (4, 6 or 8 hours category).

(1) Permanent CSRS or FERS service.

(2) Indefinite CSRS or FERS service.

(3) Non-deduction (temporary or LWOP) civilian service. LWOP in excess of 6 months in a calendar year (cumulative) is not creditable. Excess LWOP to perform military duty or as a result of a workers' compensation case is creditable.

(4) Active military service performed under Title 10 USC.

(5) Active military service performed under Title 32 USC which meets all of the following criteria:

(a) Interrupts creditable civilian service.

(b) Is performed under Section 316, 502, 503 or 504 or 505 of Title 32.

(c) Return to technician status is after 2 AUG 90.

(d) Pay is received for the Title 32 service.

Technicians who have service they believe may be creditable should forward copies of documentation to HRO for review and determination.

3-4. Maximum Accumulation

Federal employees may accumulate a maximum of 240 hours of annual leave. However, excess annual leave will only be forfeited at the beginning of the first pay period of the new leave year.

3-5. Granting Annual Leave

a. Purpose - Annual leave is provided to allow every employee periods of relaxation and to provide short periods of time off for personal and emergency purposes.

b. Scheduling Annual Leave - Supervisors have the responsibility to decide when the leave may be taken. This decision will generally be made in the light of the needs of the service rather than solely on the desires of the employee. Supervisors will insure that annual leave is scheduled for use so as to prevent any unintended loss at the end of the leave year. If a severe work interruption should arise, supervisors may cancel scheduled leave.

c. Advancing Annual Leave - Annual leave may be advanced. Advancement of leave will be handled on a case by case basis and cannot exceed the amount of leave that would accrue to the employee during the current year. The supervisor must have reasonable assurance that the employee will be in a duty status long enough to earn the advanced annual leave. Doubtful cases shall be disapproved. Requests will be submitted through normal channels to the Human Resources Officer for approval. Annual leave may not be advanced during the 90 day qualifying period for new and temporary employees.

d. Sickness During Annual Leave - When sickness occurs during a period of annual leave, supervisors may grant sick leave for the period of sickness.

e. The minimum charge for annual leave is one hour.

f. Generally, employees are prohibited from taking annual leave immediately prior to their separation, often referred to as "terminal leave".

(1) Terminal, annual, or vacation leave immediately prior to separation from federal service, when the separation is known in advance, is limited to cases where the good of the service requires such action. In these cases a written request must be forwarded to HRO.

(2) If an employee takes annual leave prior to separation, but is present for, and performs duty on

her last administrative workday, the leave is not considered terminal and does not violate the restriction. In addition, the terminal leave rules do not apply to an employee who takes accrued annual leave during the final hours of the last day of employment before separation, providing the employee substantially works the entire final pay period, including part of the last day of that period. In this case, the employee may accrue and use the leave during the last day of employment..

(3) Under the provisions of the Civilian Assistance and ReEmployment (CARE) Program, the terminal leave restriction does not apply to individuals in receipt of Reduction-In-Force (RIF) separation notices who, through the use of accrued annual leave, may extend their separation date to attain first eligibility for retirement annuity and/or Federal Employee Health Benefits Program Annuitant coverage.

g. If the hours available to an employee are insufficient to cover the hours used or requested, the order of precedence for charging the excess will be in accordance with the order of precedence matrix in Appendix A.

3-6. Restoration Of Forfeited Annual Leave

a. Authorization - Public Law 93-181, 14 December 1973, provides for restoration of annual leave forfeited due to administration error, sickness, or exigencies of the public business (this includes furlough).

b. Request for Restoration - Of paramount importance in the review of any request for restoration of annual leave is a determination that the operational demands were of such importance that technicians could not be excused from duty for the duration and that there was no reasonable alternative to cancellation of scheduled leave. In addition, the law requires that the annual leave must have been scheduled at least three pay periods prior to the end of the leave year before such leave can be considered for restoration. The following documentation supporting requests for restoration of leave must be submitted through channels to HRO:

- (1) Written verification of scheduling, rescheduling of the annual leave.
- (2) Calendar date the leave was approved.
- (3) Date(s) during which the leave was scheduled for actual use.

(4) Reason(s) for subsequent canceling of approved leave.

(5) Beginning and ending date of the operational demand that resulted in the forfeiture. The date fixed as the termination of the emergency determines the two-year period within which the restored leave must be used.

(6) The date the canceled leave was rescheduled.

(7) The date(s) during which the canceled leave was rescheduled for use.

(8) The exact number of hours requested to be restored.

3-7. Disposition Of Annual Leave

Technicians are entitled to receive a lump sum payment for all accumulated and accrued annual leave upon separation from technician employment. If the technician leaves the NH National Guard to accept a position in another federal agency, lump-sum payment of annual leave is not allowed. If the leave is transferable to the new position, it must be transferred.

CHAPTER 4 LEAVE WITHOUT PAY

4-1. Eligible Employees

All technicians are eligible for leave without pay (LWOP).

4-2. Granting Leave Without Pay

a. Administrative Discretion. The authorization of leave without pay is a matter of employer administrative discretion. Employees cannot demand that they be granted leave without pay as a matter of right except as follows:

- (1) To cover a disabled veteran's absence for medical treatment; or
- (2) To cover a technician's absence to perform military duties (not covered by some form of paid leave).
- (3) To cover an absence, for limited periods, when the technician is receiving injury compensation under the Federal Employees Compensation Act (workers compensation).

(4) To cover an absence under the provisions of the Family Medical Leave Act. See Chapter 7 of this regulation for details.

(5) To participate in school activities directly related to the educational advancement of a son or daughter (or step son/daughter) such as a parent-teacher conference or interviewing for a new school; accompanying son or daughter to routine medical or dental appointment; accompanying an elderly relative to routine medical or dental appointments for other professional services related to the elders' care. Leave without pay for this purpose is limited to a total of 24 hours unpaid leave in any 12 month period.

b. Approval Conditions of Leave Without Pay. As a basic condition to approval of leave without pay, there should be reasonable expectation that the technician will return at the end of the approved period. In addition, it should be apparent that at least one of the following benefits will result:

- (1) Increased job ability;
- (2) Protection or improvement of employee's health;
- (3) Retention of a desirable employee; or
- (4) Furtherance of a program of interest to the government.

c. Approval Considerations. Each request for leave without pay will be examined closely to ensure that the value to the government or the serious needs of the employee are sufficient to offset such costs and administrative inconveniences as:

- (1) Encumbrance of the position.
- (2) Obligation to provide active employment at the end of LWOP.
- (3) Eligibility for continued coverage without cost to individuals for up to one year of FEGLI Life Insurance.
- (4) Loss of services that may be vital to the organization.
- (5) The effect of leave without pay on such benefits as retirement, leave accrual, within grade increases, and severance pay.

d. Legal Limits - There is no maximum prescribed by law for the amount of LWOP granted. However, LWOP should not be authorized for more than 52 calendar weeks, except in unusual circumstances. Extensions for any like or shorter period should be carefully reviewed.

e. Conversion to Another Form of Leave.- LWOP granted an employee may not at a later time be converted to annual or sick leave, except in disability retirement and employee compensation cases in which claims are disallowed.

4-3. Requesting Leave Without Pay

a. Supervisors may approve LWOP up to and including 80 hours duration. Leave without pay in excess of 80 hours will be submitted on Standard Form 52 to the Human Resources Office through channels for approval. Request must specify the inclusive dates, the number hours requested, the reasons supporting the request, and endorsements at each level of supervision.

b. If the request is for medical reasons a statement signed by a doctor will be enclosed with request.

c. All requests for leave without pay to attend military training, including those under 80 hours, will be submitted on Standard Form 52 with a copy of the military order attached. The Human Resources Office will document all such absences on a Standard Form 50.

d. Technicians on active duty may remain so for 5 consecutive years in an LWOP-MIL status and are authorized restoration under the provisions of Public Law 103-352, USERA (Uniformed Services Employment and Reemployment Act of 1994).

4-4. LWOP Is Not A Penalty

Generally you may not place a technician on LWOP without his/her consent. LWOP may not be imposed as a penalty. This paragraph does not negate the provisions concerning enforced leave found in Chapter 19 of this regulation or Appendix A when insufficient leave hours to cover annual leave are taken.

CHAPTER 5 SICK LEAVE

5-1. Eligible Employees

All employees (permanent or temporary) regardless of work schedule (full time or part time) are eligible to earn and use sick leave.

5-2. Earning Of Sick Leave

- a. Full time employees earn sick leave at the rate of 4 hours for each full biweekly pay period.
- b. Part time employees earn 1 hour of sick leave for each 20 hours in a pay status.
- c. Employees must be employed for the full bi-weekly pay period to be entitled to accrue sick leave for that period.
- d. Full time and part time employees who change to an intermittent work schedule during the pay period are eligible to have their leave accruals prorated. See Appendix B for proration.
- e. Sick leave is earned from the first pay period of employment and its earning is not affected by the type of appointment or length of service.

5-3. Maximum Accumulation

Unused sick leave accumulates without limit.

5-4. Granting Sick Leave

- a. Purpose. Sick leave is appropriate when any of the following circumstances cause absence.
 - (1) Employee's medical, dental, or optical examination or treatment.
 - (2) Employee's incapacitation for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth.
 - (3) Jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease; or as determined by the health authorities having jurisdiction or by a health care provider
 - (4) Employee's care for a family member as a result of physical or mental illness; injury; pregnancy; childbirth; or medical, dental, or optical examination or treatment provided the condition would qualify the employee for sick leave if he or she had the same condition. ("Family Care", see para 5-4b)
 - (5) Make arrangements necessitated by the death of a family member or attend the funeral of a family member. ("Bereavement Leave", see para 5-4b)

(6) Must be absent from duty for purposes relating to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.

b. Limitations on Use for Family Care or Bereavement. There is a limit on the amount of sick leave an employee can use for family care and bereavement each leave year. The basic limit for full-time employees is 40 hours. An additional 64 hours can be used if the use of that leave does not cause the amount of sick leave to the employee's credit to fall below 80 hours. Advanced sick leave may not be considered when determining whether an employee has maintained this 80 hour minimum balance.

c. Restrictions on terminal leave do not apply to employees on sick leave pending approval of disability retirement application. These individuals may continue to use sick leave, selecting the most advantageous effective date of retirement.

d. Family member defined. For the purposes of this chapter "family member" means the following relatives of the employee:

- (1) Spouse, and parents thereof;
- (2) Children, including adopted children and spouses thereof;
- (3) Parents;
- (4) Brothers and sisters, and spouses thereof; and
- (5) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

e. Charging Sick Leave - The minimum charge for sick leave is one hour.

f. If the hours available to an employee are insufficient to cover the hours used or requested, the order of precedence for charging the excess will be in accordance with the order of precedence matrix in Appendix A.

5-5. Responsibilities

- a. Supervisor responsibilities.

(1) It is the responsibility of the immediate supervisor to determine whether absences are properly chargeable to sick leave.

(2) Whenever it is found that an absence does not warrant the use of sick leave, it may be charged to annual leave or leave without pay, as appropriate; or, if such absence was not authorized, it may be charged as AWOL.

(3) Require medical certificates from the employee when appropriate.

(4) The supervisor (or designee) must maintain information on employees who use sick leave for family care or bereavement. This data capture is necessary to ensure the correct information is available to generate reports required by the U.S. Office of Personnel Management. The information required to be maintained for each occurrence is name, number of hours used, purpose (i.e. family care or bereavement) and relationship (i.e. son, spouse, father).

b Employee responsibilities.

(1) The technician who becomes aware of a need to use sick leave is responsible for notifying his supervisor as soon as practical.

(2) A technician shall request advance approval for sick leave for medical, dental, or optical examination.

(3) The technician will furnish a medical certificate when requested by his supervisor.

(4) Individuals who use sick leave for family care or bereavement under the provision of the Family Friendly Leave Act (FFLA) must annotate the SF 71 by writing "FFLA - Family Care" or "FFLA - bereavement" as appropriate, in the remarks section (block 6). Further, the remarks must indicate the relationship of the family member (i.e. father, newborn son, grandmother, etc).

5-6. Medical Certificates

Medical certificates may be required under the following conditions:

a. For absences in excess of three (3) consecutive workdays. However, an employee's written statement of the reason for his illness that exceeds three days may be considered and accepted by the supervisor in lieu of a doctor's certificate when

the employee's illness did not require the services of a doctor, or a doctor was not involved due to the remoteness of the locality or an inability to secure medical services.

b. For absences for short periods of frequent intervals and there is reason to believe that the sick leave privilege may be abused. In such cases, the technician will be notified, in writing, by his technician supervisor that a Medical Certificate will be required to support future grants of sick leave. This written notification will be effective until such time as a review of the case reveals that the requirement is no longer necessary.

5-7. Advancing Sick Leave

a. A full time employee who is seriously injured or ill may draw on his anticipated future sick leave accruals if the disability surpasses his current accumulation. A maximum of 240 hours sick leave may be advanced under these circumstances. The advancing of sick leave may be granted subject to the following conditions:

(1) Request for advancement will be supported by medical certificate.

(2) All available accumulated sick leave will be exhausted before advancement.

(3) Annual leave that would otherwise be forfeited is used.

(4) There is reasonable assurance that the technician will return to duty to earn and repay advance credits.

b. In the case of technicians serving under temporary appointments or under probationary or trial periods, sick leave may be advanced only up to the total amount they would earn during the term of the appointment.

c. The advanced sick leave to a technician's account may never exceed 240 hours at any time. Where it is known that the technician is to be retired or where it is anticipated that he/she is to be separated, the total advance may not exceed an amount which can be repaid by sick leave accruals prior to the separation.

d. Advanced sick leave may be used for FFLA purposes. However, sick leave that has been advanced may not be considered when determining

whether an employee has met the 80 hour minimum balance required to make an employee eligible for the additional 64 hours of sick leave for family care or bereavement as shown in paragraph 5-4, b. above.

5-8. *Unliquidated Advances*

Unliquidated advance sick leave is carried forward from pay period to pay period and from one leave year to another until liquidated by sick leave accruals. When separation occurs prior to liquidation of the entire advanced sick leave, the remaining balance must be repaid unless the separation is caused by death, disability retirement, or a disability which prevents the employee from continuing in service and which is the basis for the separation.

a. Requesting technician to refund the amount paid for the period covering the leave for which indebted.

b. Charge against available annual leave.

c. Set-off against earned salary or unapplied savings bond balances.

d. Request for retirement set-off (except in disability retirement cases).

5-9. *Disposition Of Sick Leave*

When an employee separates from federal service disposition of the unused sick leave balance will be as follows:

a. If the technician separates by any means other than retirement under the Civil Service Retirement System (CSRS) all unused sick leave at the time of separation will be certified on an SF 1150 by the civilian payroll office. If the technician is ever reemployed in the Federal Government, the sick leave will be recredited to his account.

b. If the technician retires subject to the Civil Service Retirement System, all unused sick leave will be converted to years, months, and days and credited to the technician as service for retirement purposes.

CHAPTER 6 ABSENCES FOR MATERNITY REASONS

6-1. *Eligible Employees*

All technicians (male and female) are eligible for absences for maternity reasons.

6-2. *Absences For Maternity Purposes*

This is a period of approved absence for incapacitation related to pregnancy and confinement. There is not a separate "maternity leave" as a type of leave. It is chargeable to any combination of sick leave, annual leave, leave without pay, and compensatory time. There should be no arbitrary cutoff date which requires a technician to cease work at a certain date or requires the technician to return to work by a certain date. The length of absence should be determined by the technician, her physician, and her supervisor. An absence covering pregnancy and confinement is to be treated like any other medically certified temporary disability. Requests for advanced sick leave should be processed in accordance with Chapter 5 of this regulation.

6-3. *Responsibilities*

a. Employee Responsibilities.

(1) A technician should report her pregnancy as soon as it is known so that any necessary steps can be taken to protect her health or improve working conditions and so that necessary staffing adjustments may be planned.

(2) An employee who is not planning to return to work should submit her resignation at the expiration of the period of incapacitation. She may, however, be separated earlier for other reasons such as expiration of appointment, reduction in force, cause, or other reasons unrelated to the maternity absence.

(3) A male technician may be granted annual leave, leave without pay, or compensatory time for the purpose of assisting or caring for his minor children or the mother of his newborn child while she is incapacitated for maternity reasons. Further, a male technician may use sick leave provided the provisions for care of a family member (Chapter 7 of this regulation) are met.

b. Agency Responsibilities. The agency has an obligation to assure continued employment in her position or a position of like seniority, status, and pay, to the employee who wishes to work following delivery and confinement.

6-4. *Family Medical Leave Act (FMLA)*

The provisions of FMLA apply to both male and female technicians who need to be absent for maternity/paternity reasons. Chapter 7 of this regulation discusses FMLA.

CHAPTER 7

FAMILY MEDICAL LEAVE ACT

7-1. Eligible Employees

All employees are eligible to use leave under the provisions of the Family Medical Leave Act (FMLA) except intermittent employees and employees serving under a temporary appointment with a time limitation of one year or less. Further, the employee must have completed at least 12 months of civilian service with the Federal Government (not required to be 12 recent or consecutive months).

7-2. Granting Leave Under FMLA

a. Permissible uses of 12 administrative work weeks unpaid leave provision. Employees shall be entitled to a total of 12 administrative work weeks of unpaid leave (LWOP) during any 12 month period for one or more of the following reasons:

- (1) Birth of a son/daughter and care of a newborn.
- (2) Placement of a son/daughter with technician for adoption or foster care (within one year after placement).
- (3) Care for spouse, son/daughter, or parent with a serious health condition.
 - (a) Son or daughter - Includes biological, adopted, foster child, step child, a legal ward, or a child of a person in *loco parentis* (in the place of a parent). The child must be under 18 years of age, or 18 or older and incapable of self-care because of a mental or physical disability.
 - (b) Parent - A biological parent or an individual who stands or stood in *loco parentis* to an employee when that employee was a child.
- (4) A serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position. Serious health condition is defined as follows:
 - (a) To be considered a "serious health condition," the condition must require an absence from work, school, or other regular daily activities of more than 3 calendar days. In addition, a "serious health condition" must require continuing treatment by, or under the supervision of, a health care provider.

(b) Examples of serious health conditions cited in the legislative history include, but are not limited to, heart attacks, heart conditions requiring heart bypass or valve operations, most cancers, back conditions requiring extensive therapy or surgical procedures, strokes, severe respiratory conditions, spinal injuries, appendicitis, pneumonia, emphysema, severe arthritis, severe nervous disorders, injuries caused by serious accidents on or off the job, ongoing pregnancy, miscarriages, complications or illnesses related to pregnancy (such as severe morning sickness), the need for prenatal care, childbirth, and recovery from childbirth. All of these conditions meet the general test that either the underlying health condition or the treatment for it requires absences on a recurring basis or for more than a few days for treatment or recovery. They also involve either inpatient care or continuing treatment and/or supervision by a health care provider, and frequently involve both.

b. Permissible Uses of 24 Hours Unpaid Leave Provision. Employees may schedule and take up to a total of 24 hours of unpaid leave in any 12 month period to participate in school activities directly related to the educational advancement of a son or daughter such as a parent-teacher conference or interviewing for a new school; accompanying a son or daughter to routine medical or dental appointments; accompanying an elderly relative to routine medical or dental appointments or appointments for other professional services related to the elders' care.

c. When Both Parents Are Employees. A father and a mother are each entitled to 12 administrative workweeks of unpaid leave for a birth, adoption, foster care, or for the care of a son or daughter with a serious health condition.

d. Time Limitations. The 12 month period referred to in subparagraph a. above commences on the day the employee first takes leave for a family or medical need, or on the date of birth/placement whichever is earlier.

e. Substitution Of Paid Leave.

(1) An employee may elect to substitute paid time off for any or all of the period of leave under FMLA.

(2) Any of the following types of paid time off may be substituted: accrued or accumulated annual or sick leave, leave donated to the employee under

the voluntary leave transfer program, or compensatory time.

(3) The agency may not deny an employee's right to substitute paid time off for any or all of the period of FMLA leave.

(4) The agency may not require an employee to substitute paid time off for any or all of the period of FMLA.

(5) If the hours available to an employee are insufficient to cover the hours used or requested, the order of precedence for charging the excess will be in accordance with the order of precedence matrix in Appendix A.

f. Protection of Employment and Benefits. Technicians are entitled to be restored to the same or equivalent position, with equivalent benefits, pay, status, and other terms and conditions of employment. The law will not entitle any restored technician to the accrual of any employment benefits during any period of leave or to any right, benefit, or position of employment other than those to which the employee would have been entitled had the technician not taken the leave.

7-3. Responsibilities

a. Supervisor Responsibilities.

- (1) Determine whether absences are properly chargeable to family or medical leave.
- (2) Ensure proper documentation of family and medical leave for reporting purposes.
- (3) Family and medical leave will be posted to T & A reports according to payroll requirements.

(4) The supervisor may require certification from the health care provider concerning the technician's ability to resume work. Supervisors may also require periodic status reports on the technician's ability or intention to resume work.

b. Employee Responsibilities.

(1) Request leave as far in advance as possible, particularly if the absence is to be prolonged. This gives the agency time to make necessary adjustments to cope with the absence.

(2) Submit requests involving use of sick or annual leave to the supervisor with any supporting documentation. If the request is for medical reasons also include the Certification of Health Care Provider form found in Appendix C.

(3) Submit requests for family or medical leave involving LWOP as follows:

(a) Requests for LWOP over 80 hours will be submitted on a SF 52 through the line of supervision to HRO. Remarks must indicate FMLA.

(b) All requests for LWOP for 80 hours or less will be submitted to the supervisor. Remarks must indicate FMLA.

(c) If the request is for medical reasons a certification of health care provider form will be enclosed.

(4) If LWOP is used for FMLA purposes the technician may elect to continue federal employee health benefits (FEHB) coverage. The technician must make arrangements through HRO to pay the employee portion of the premiums.

7-4. Continued Employment After Extended Family Medical Leave

a. Employees who plan to return to work. The agency will assure continued employment for an employee for whom extended leave has been approved unless termination is otherwise required by expiration of appointment, by reduction-in-force, for cause, or for other reasons unrelated to the absence. The employee must be allowed to return to the position formerly occupied.

b. Employees who do not plan to return to work. An employee who has given birth and does not plan to return to work should submit her resignation at the expiration of her period of incapacitation. She may, however, be separated earlier for other reasons, such as expiration of appointment, reduction in force, cause, or other reasons unrelated to the maternity absence.

CHAPTER 8 VOLUNTARY LEAVE TRANSFER PROGRAM

8-1. Eligible Employees

All technicians are eligible for Voluntary Leave Transfer (VLT) as recipients and donors except that an employee may not donate leave to his or her immediate supervisor.

8-2. Provisions Of The Voluntary Leave Transfer Program

a. Purpose. VLT permits federal employees to donate annual leave for the use of other federal employees in medical or family medical emergency situations. Maternity situations will be considered in the same manner as other incapacitating medical conditions of similar duration. Only employees experiencing a "medical emergency" (including a medical condition of a family member) are eligible to become leave recipients. For the purposes of VLT "family member" is defined as:

- (1) Spouse, and parents thereof;
- (2) Children, including adopted children, and spouses thereof;
- (3) Parents;
- (4) Brothers and sisters, and spouses thereof; and

(5) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

b. Limitations on donation of annual leave.

(1) In any one leave year, a leave donor may donate no more than a total of one-half of the amount of annual leave he or she would be entitled to accrue during the leave year in which the donation is made.

(2) In the case of a leave donor who is projected to have annual leave that otherwise would be subject to forfeiture at the end of the leave year, the maximum amount of annual leave that may be donated during the leave year shall be the lesser of:

(a) One-half of the amount of annual leave he or she would be entitled to accrue during the leave year in which the donation is made; or

(b) The number of hours remaining in the leave year (as of the date of the transfer) for which the leave donor is scheduled to work and receive pay.

(3) Limitation waivers. Limitations on donating annual leave may be waived. Such waiver requests

must be in writing and sent through channels to the Human Resources Officer.

(4) Donations from other agencies. The employing agency of the leave recipient must accept the transfer of annual leave from a donor employed in another agency if;

(a) The leave donor is a family member of the leave recipient;

(b) The leave recipient's employing agency determines that the amount of annual leave donated within the agency may not be sufficient to meet the needs of the leave recipient; or

(c) In the judgment of the leave recipient's employing agency, acceptance of leave transferred from another agency would further the purpose of the voluntary leave transfer program.

8-3. Application Procedures To Become A Leave Recipient

a. Technicians may apply to become leave recipients by completing Optional Form (OF) 630 and submitting it to the first line supervisor. If the technician is not capable of making application, another technician may make written application on their behalf. Documentation of the medical emergency provided by the attending physician or medical expert stating the extent of the medical emergency and its approximate duration.

b. Immediate supervisors will attempt to verify the information submitted, make their recommendation in block 17 of the OF 630 and forward the request through channels to the appropriate deciding official. The Adjutant General serves as the deciding official for all technicians. Further, the supervisor will monitor the status of the medical emergency and will notify HRO when the emergency has terminated.

c. OF 630 can be found in Appendix C of this regulation.

8-4. Approval Of Applications To Become A Leave Recipient

a. Upon receipt of an application, the Human Resource Officer will determine that the absence from duty without available paid leave because of the medical emergency is (or is expected to be) at least 24 hours (or, in the case of a part-time employee or an employee with an uncommon tour of duty, at least

30 percent of the average number of hours in the employee's biweekly scheduled tour of duty). This is the only factor the Human Resource Officer will consider in determining whether a medical emergency is likely to result in a substantial loss of income.

b. The Adjutant General will sign block 18 of the OF 630, indicating approval or disapproval, and forward the request to HRO.

c. If approved HRO will notify the leave recipient within 10 workdays after the application was received. This notification will inform the technician that the request was approved and that other employees may request the transfer of annual leave to the account of the leave recipient.

d. If disapproved HRO will notify the applicant within 10 workdays after the application was received. This request will inform the applicant that the application has not been approved and the reasons for the disapproval.

8-5. Application Procedures For Leave Donors

a. Annual leave only may be donated.

b. Technicians who wish to become leave donors may apply by completing OF 630-A and forwarding to HRO for approval.

c. A leave donor cannot donate annual leave to his/her immediate supervisor.

d. HRO will attach the approved Leave Donor Request, OF 630-A and forward to the appropriate Technician Pay Section. The pay section will sign the authorizing section, stating that enough leave is available.

e. OF 630-A can be found in Appendix C of this regulation.

8-6. Use Of Transferred Annual Leave

a. A leave recipient may use annual leave transferred to his/her account in the same manner and for the same purposes as if he/she had accrued the sick leave.

b. Transferred annual leave may not be:

(1) Used until all accrued annual leave is exhausted.

(2) Used until all accrued sick leave, if applicable, is exhausted. Sick leave is applicable if the employee is ill or injured or the medical emergency involves a family member and limitations on use of sick leave for family care or bereavement have not been attained.

(3) Transferred to another leave recipient under this regulation.

(4) Transferred to another agency upon the leave recipient's transfer of employment.

(5) Included in a lump sum payment.

(6) Made available for recredit upon re-employment by a Federal agency.

c. Annual leave transferred under this program may be submitted retroactively for periods of leave without pay (LWOP) or used to liquidate an indebtedness for advanced annual or sick leave that was granted on or after the date determined to be the beginning of the period of medical emergency which gave rise to use of VLT.

8-7. Termination Of Medical Emergency

The medical emergency affecting a leave recipient shall terminate:

a. When the leave recipient's employment is terminated by the NH National Guard.

b. At the end of the bi-weekly pay period in which the leave recipient's supervisor determines that the leave recipient is no longer affected by an emergency; or

c. At the end of the bi-weekly pay period in which the leave recipient's employing agency receives notice that OPM has approved an application for disability retirement.

d. When the medical emergency affecting a leave recipient terminates, no further requests for transfer of annual leave to the leave recipient may be granted, and any unused transferred annual leave remaining to the credit of the leave recipient shall be restored to the leave donors under this regulation.

8-8. Disposition Of Transferred Annual Leave

a. Any transferred annual leave remaining to the credit of the leave recipient when the medical

emergency terminates, shall be restored to the leave donor(s) to the extent administratively feasible. The amount of unused transferred annual leave to be restored to each leave donor shall be determined as follows:

(1) Divide the number of hours of unused transferred annual leave by the total number of hours of annual leave transferred to the leave recipient;

(2) Multiply the ratio obtained in paragraph a. (1) of this section by the number of hours of annual leave transferred by each leave donor eligible for restoration under of this section; and

(3) Round the result obtained in paragraph a. (2) of this section by 1.0 (smallest increment of annual leave that may be taken).

b. If the total number of eligible leave donors exceeds the total number of hours of annual leave to be restored, no unused transferred annual leave shall be restored. In no case shall the amount of annual leave restored to a leave donor exceed the amount transferred to the leave recipient by the leave donor.

c. If the leave donor is by any means separated from Federal service before unused transferred annual leave can be restored, the employing agency of the leave recipient shall not restore the unused transferred annual leave to that donor.

d. At the election of the leave donor, unused transferred annual leave restored to the leave donor under this section may be restored as follows:

(1) Crediting the restored annual leave to the leave donor's annual leave account in the current leave year;

(2) Crediting the restored annual leave to the leave donor's annual leave account effective as of the first day of the first leave year beginning after the date of election; or

(3) Donating such leave in whole or part to another leave recipient.

e. If a leave donor elects to donate only part of his or her restored leave to another leave recipient under paragraph d. (3) of this section, the donor may elect to have the remaining leave credited to the leave donor's annual leave account under paragraphs d. (1) or d. (2) of this section.

f. Transferred annual leave restored to the account of a leave donor under paragraphs d. (1) or d.(2) of this section shall be subject to the limitation (240 hour maximum annual leave accumulation) imposed by chapter 3, paragraph 3-4 of this regulation at the end of the leave year in which the restored leave is credited to the leave donor's annual leave account.

CHAPTER 9 MILITARY LEAVE

9-1. *Eligible Employees*

a. Military leave is granted to all full time permanent and indefinite technicians whose appointment is expected to last one year or longer.

b. Permanent, Indefinite, and part time employees earn military leave on a pro rated basis. This percentage is determined by dividing 40 into the number of hours in the regularly scheduled work week of that employee.

c. Employees with temporary appointments of less than one year or temporary appointments not to exceed one year are not entitled to military leave.

9-2. *Earning Military Leave*

Each eligible employee is entitled to leave of absence from his duties, without loss of pay, time, or efficiency rating, for 15 days in each fiscal year for active duty, or for training.

9-3. *Maximum Accumulation*

Unused military leave may be accumulated for use in the succeeding fiscal year until it totals 15 days at the beginning of a fiscal year. This gives a full time employee the potential of 30 days military leave during a fiscal year (i.e., 15 days carried over plus 15 days for the current FY).

9-4. *Granting Military Leave*

a. Upon request, an eligible technician is granted any military leave available to him whenever he is ordered to federal active duty. Technicians are provided the option of using other available leave first, i.e., annual, compensatory leave, or leave without pay for the performance of such duty. Annual leave, leave without pay, or compensatory time off may not be used solely to avoid the charging of non-workdays against the allowable 15 days of military leave.

b. Chargeable on a calendar day basis. Military leave will be charged for all intervening non-workdays and holidays falling wholly within the period of absence for military duty when there is a commingling of military leave and other types of leave. No charge is made for nonworkdays and holidays at the beginning and end of a period of absence on active military duty. If a technician chooses not to use any military leave while absent on military duty, but rather covers the workdays by taking annual leave, leave without pay, compensatory time off, or a combination of these, there will be no charge to military leave for the non-workdays or holidays which fall within the period of absence. However, once any amount of military leave is used for a period of active duty then all intervening non-workdays and holidays falling within that period of active duty must also be charged to military leave.

c. Pay status required. A pay status either immediately prior to the beginning of military duty or a return to a pay status immediately afterwards is a

requisite to entitlement to military leave, otherwise no civilian pay would have been lost.

d. In no circumstance will military leave be granted to cover an absence due to state active duty or inactive duty training.

e. Dual compensation. Under normal circumstances a period of technician duty and a period of active duty may not be credited on the same calendar day. A technician on active duty status during any portion of a technician duty day must be in an appropriate leave status (annual, military, compensatory, LWOP) for that entire calendar day. When mission requirements necessitate utilization of a technician for mission accomplishment and the technician is placed on active duty orders and the entry on active duty occurs after the technician has begun a normal technician duty day, the technician will be placed in an appropriate leave status from his/her technician position for the remainder of the day.

f. Examples. Following are examples which should clarify the charging of military leave in conjunction with other leave and the charging of military leave on non-workdays. These examples have been formulated using May 1997 (see Figure 9-1). The hypothetical employee worked a 5 x 4 x 9 schedule. Monday, 5 May and Monday, 12 May were non-workdays. 26 May was a holiday

MAY 1997						
SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1	2 (AL)	3 (ML)
4 (ML)	5 (AL)	6 (AL)	7 (AL)	8 (AL)	9 (AL)	10 (ML)
11 (ML)	12 (ML)	13 (ML)	14 (ML)	15 (ML)	16 (ML)	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Figure 9-1a May 1997 Calendar

(1) Example: Technician was placed on military duty 2-16 May. Elected to use annual leave Friday, 2 May and Monday through Friday, 5-9 May.

Solution: Correct charge to military leave is 9 days. Because military leave was used during the period of active duty, military leave was charged for all intervening non-workdays, i.e., 3 & 4, and 10 through 16 May.

MAY 1997						
SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1	2 (Comp)	3
4	5 (Comp)	6 (Comp)	7 (Comp)	8 (Comp)	9 (AL)	10
11	12 (AL)	13 (AL)	14 (AL)	15 (LWOP)	16 (LWOP)	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Figure 9-1b May 1997 Calendar

(2) Example: Technician was placed on military duty 2-16 May. Elected to use compensatory time 2 May and 5-8 May. Used annual leave 9 May and 12-14 May. Elected LWOP 15-16 May.

Solution: There is no charge to military leave. Military leave was never elected and non-workdays are only charged to military leave when military leave is co-mingled with other types of leave.

MAY 1997						
SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19 (AL)	20 (AL)	21 (AL)	22 (AL)	23 (AL)	24 (ML)
25 (ML)	26 (ML)	27 (ML)	28 (ML)	29 (ML)	30 (ML)	31

Figure 9-1c May 1997 Calendar

(3) Example: Technician was placed on military duty 17-31 May. Elected annual leave 19-23 May and military leave 26-30 May.

Solution: Correct charge to military leave is 7 days (24-30 May). The non-workdays falling at the beginning and end of the period (17, 18, and 31 May) were not charged to military leave.

MAY 1997

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1	2	3
4	5	6	7	8	9	10
11	12	13	14 (COMP)	15 (COMP)	16 (COMP)	17 (ML)
18 (ML)	19 (COMP)	20 (COMP)	21 (COMP)	22 (COMP)	23 (COMP)	24 (ML)
25 (ML)	26 (ML)	27 (AL)	28 (ML)	29	30	31

Figure 9-1d May 1997 Calendar

(4) Example: Technician was placed on military duty 14-28 May. Elected compensatory time 14-23 May, annual leave 27 May and military leave 28 May.

Solution: Correct charge to military leave is 7 days (17, 18, 19, 24, 25, 26 and 28 May). If the technician had elected annual, compensatory time or LWOP for the 28 May there would have been no charge to military leave.

MAY 1997

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1	2 (Other)	3 (ML)
4 (ML)	5 (Other)	6 (Other)	7 (Other)	8 (Other)	9 (ML)	10 (Other)
11 (Other)	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Note: The term "Other" refers to other leave status.

Figure 9-1e May 1997 Calendar

(5) Example: Technician was placed on military duty 2-11 May. Elected military leave 9 May.

Solution: Correct charge to military leave is 3 days (3&4 May and 9 May). 10 and 11 May were not intervening non-workdays and are not chargeable to military leave.

MAY 1997

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1	2	3
4	5 (ML)	6 (ML)	7 (ML)	8 (ML)	9 (ML)	10
11	12 (ML)	13 (ML)	14 (ML)	15 (ML)	16 (ML)	17
18	19 (ML)	20 (ML)	21 (ML)	22 (ML)	23 (ML)	24
25	26	27	28	29	30	31

Figure 9-1f May 1997 Calendar

(6) Example: Technician was on 3 separate sets of orders and used military leave to perform military duty 5-9 May, 12-16 May, and 19-23 May.

Solution: Correct charge to military leave is 15 days. There was no charge to military leave for non-workdays since the technician was not on military duty during the intervening non-workdays.

MAY 1997

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1	2 (AL)	3 (ML)
4 (ML)	5 (AL)	6 (AL)	7 (AL)	8 (AL)	9 (AL)	10 (ML)
11 (ML)	12 (ML)	13 (ML)	14 (ML)	15 (ML)	16 (ML)	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Figure 9-1g May 1997 Calendar

(7) Example: Technician performed technician duty for 4 hours on Friday, 2 May and took 4 hours annual leave. Technician was placed on military duty 2 -16 May. Technician elected to use annual leave 5-9 May and military leave 12-16 May.

Solution: Correct charge to military leave is 9 days; (3&4 May and 10-16 May). The technician worked a partial day and took leave for the remainder of the day, therefore there would not be a charge to military leave. There is no charge to military leave for 2 May. See paragraph 9-4, e. Because the technician was on military duty prior to 3 May and used some military leave, the intervening non-workdays must be included. If the military duty had continued through 17 and 18 May military leave would not be charged for 17-18 May because they were non-workdays falling at the end of period of military duty.

- g. If the hours available to an employee are insufficient to cover the hours requested, the order of precedence for charging the excess will be in accordance with the order of precedence matrix in Appendix A.

9-5. Military Leave For Certain Duty Performed Outside The Continental United States (OCONUS).

a. Effective 12 February 1996 military technicians were entitled upon letter request, to receive an additional 44 days of military leave to participate in active duty that meets all of the following:

- (1) The active duty must be performed under Title 10 USC, Section 12301 (b) or 12301 (d).

- (2) The active duty must be performed without pay and the Title 10 order should reflect such.
- (3) The active duty must be performed outside the United States, its territories, and possessions.
- (4) The active duty must be performed in noncombat operations. Military personnel will determine what constitutes "noncombat operations".

b. Documentation Requirements. A copy of military orders issued by competent authority or a statement signed by the technician's commanding officer is sufficient provided it shows that the active duty meets the criteria in paragraph 9-5, a. above.

c. This additional 44 days of military leave becomes available on a calendar year basis and must be requested by the technician in writing (via memorandum) through channels to the Human Resources Office. Any unused balance is lost at year's end. There is no provision to carry this entitlement over from one calendar year to the next.

d. OCONUS Military Leave will be converted from days to hours and charged on the same basis as annual leave. Technicians who work 80 hours per pay period (including those on compressed work schedules) are entitled to a maximum of 352 hours (8 x 44 = 352).

e. There is no charge for nonworkdays and holidays when using OCONUS military leave.

f. Technicians using this form of military leave are not entitled to holiday (premium) pay.

g. Technicians may elect to use any other appropriate form of leave (annual leave, traditional 15 days military leave, LWOP, or compensatory time) prior to use of OCONUS military leave. There is no prohibition on commingling this leave with other forms of leave except that use of OCONUS military leave may not be used solely to avoid charge calendar year for the purpose of military aid to enforce the law or assisting civil authorities while performing:

(1) Federal military service under sections 331, 332, 12406 or 8500 of Title 10 or other provisions of law, as applicable, or;

of traditional military leave on nonworkdays or holidays.

h. Technicians must make their leave election prior to deployment.

i. Technicians using OCONUS military leave may not earn compensatory time.

9-6. Certification Of Military Duty

Technicians must obtain certification from their commanding officer that scheduled military duty was actually performed. This documentation may be a DD Form 214, NGB Form 102-10, Leave/Earnings Statement, memorandum signed by the commander, or any other document that can be used to verify the military duty was actually performed. This certification must be submitted to the technician's timekeeper as soon as practicable upon completion of the duty. If certification is not provided the technician will be charged leave in accordance with the order of precedence found in Appendix A of this regulation.

9-7. Injuries While On Active Duty

Injuries which occur during deployment are covered under military line of duty procedures and are not entitled to workers compensation.

9-8. Disposition Of Military Leave

Technicians are not entitled to receive a lump sum payment for accumulated military leave upon separation from technician employment. Military leave is forfeited upon separation.

CHAPTER 10 LAW ENFORCEMENT LEAVE

10-1. Eligible Employees

All permanent and indefinite technicians are eligible for Law Enforcement Leave (LEL).

10-2. Earning Law Enforcement Leave

a. Eligible technicians are entitled to not more than 22 workdays of law enforcement leave in a

(2) Full-time military service for the State (State Active Duty).

b. This additional leave is authorized without loss or reduction of leave to which otherwise entitled for the purpose of providing aid to enforce the law.

Based on Congressional intent, this includes situations where the Guard does not actually perform "law enforcement" duties while assisting civil authorities. Examples are:

- (1) Participation in rescue or protective work in connection with fire, floods, or other natural phenomena.
 - (2) Dropping feed to cattle during a blizzard.
 - (3) Providing support services during a strike.
 - (4) Assisting State officials during refugee processing.
 - (5) Provide assistance to civil authorities in the protection or saving of life or property or prevention of injury.
- c. Eligible technicians are entitled to LEL regardless if the state active duty is mandatory or voluntary.

10-3. Granting Law Enforcement Leave

- a. To use LEL technicians must provide the supervisor a federal or state military order issued by competent military authority in accordance with paragraph 10-2, a. above. It is understood that in emergency situations orders may be provided after the service has begun.
- b. Technicians may elect to use annual leave, LWOP, compensatory time, or LEL (or any combination) to cover absences identified in paragraph 10-2 above. There is no requirement that one form of leave be used before another. Excused absence may not be used.
- c. Holidays and non-workdays which fall within the period of military duty are not charged against the technician's LEL balance.
- d. Technicians engaged in law enforcement after the workday has started and/or returns before the workday ends will be charged LEL on an hourly basis.
- e. If the hours available to an employee are insufficient to cover the hours requested, or if military orders are not provided, charging of leave will be in accordance with the order of precedence matrix in Appendix A.

10-4. Crediting Amount Of Pay Received

Pay for military service under the provisions of this chapter may not be less than the pay due a technician as his/her regular civilian pay for the same period of time. Military pay and allowances received (other than travel, transportation, or per diem allowance) shall be credited against the technician's civilian pay and, if less than the civilian pay, the technician shall be paid the difference. If military pay exceeds civilian pay, no civilian pay will be made, nor will a refund of the excess be required. State active duty pay earned on nonworkdays is extra pay and will not be used to adjust technician pay.

10-5. Disposition Of Law Enforcement Leave

Any unused portion of the 22 days LEL is forfeited at the end of the calendar year. There is no provision for carrying over the unused balance to the next leave year.

CHAPTER 11 ABSENCES FOR EXTENDED ACTIVE MILITARY SERVICE

11-1. General

Absences to perform federal active military service in excess of 30 days raise issues and concerns that technicians should carefully consider. This chapter is dedicated to identifying those issues so the technician can plan appropriately when the need for extended active duty arises.

11-2. Appropriate Leave Status

- a. Individuals performing extended active military service may use any appropriate form of leave. Appropriate forms of leave include military leave, LWOP, annual leave, or compensatory time. There is no requirement that any form of leave be used before another.
- b. In no circumstances will technicians use excused absence or sick leave to perform active duty.

11-3. Effect On Benefits

- a. As long as the technician remains in a paid leave status there is no effect on federal benefits.
- b. Federal Employees Health Benefits (FEHB).
 - (1) Regardless of leave utilized, the technician may elect to terminate FEHB and rely upon active duty health care for the duration of the active duty.

- (2) FEHB can be reinstated immediately upon return to technician status.

(3) For the first 12 months technicians in LWOP may continue their FEHB by continuing to pay their share of the premium. For the following 6 months technicians may continue their coverage, but must pay 102% of the premium. At the expiration of this 6 months the technician may convert to a non group contract. If the technician performs the active duty in a LWOP status and wishes to maintain FEHB he/she may elect one of the following:

(a) The technician may choose to pay FEHB premiums directly to the payroll office. In this circumstance the government continues to pay its portion of the FEHB premium. The technician has the choice of monthly or bi-weekly payment. The technician should contact the HRO, Employee Relations Section to make arrangements if he/she elects this option.

(b) The technician may choose to defer all FEHB premium payments until his/her return to technician status. If this option is selected FEHB are doubled upon return to technician status until the debt is recovered. If the technician departs for active duty without making a selection, this option will be implemented.

- c. Federal Employees Group Life Insurance (FEGLI).

- (1) Regardless of leave utilized the technician may elect to terminate FEGLI.

(2) FEGLI is maintained in a LWOP status for one year at no cost to the technician. If the technician is LWOP beyond one year, FEGLI coverage terminates.

- (3) FEGLI can be reinstated immediately upon return to technician status.

- (4) Anyone who loses FEGLI may convert the coverage to a non-group contract.

- d. National Guard Association of the United States (NGAUS) Insurance.

- (1) Regardless of the type leave utilized the technician may elect to terminate NGAUS insurance.

- (2) NGAUS insurance can be reinstated immediately upon return to technician status.

(3) Technicians in LWOP status in excess of one pay period are individually responsible for maintaining premium payments. Technicians should contact the HRO, Employee Relations Section to make arrangements if he/she elects this option.

- e. Retirement.

- (1) Technicians in LWOP status may not make contributions to CSRS, FERS, or CSRS offset.

(2) Technicians who return to technician status after 1 AUG 90 may contribute to the TSP an amount equal to the amount they would have contributed were it not for the active duty. These catch up payments must be deducted from pay.

11-4. Compensation For Injury

Technicians who suffer injury or death as a result of Federal Active Duty are not eligible for employee's compensation benefits under the Federal Employees Compensation Act because technicians are on leave or approved absence from their jobs. Federal Active Duty does not constitute performance of official technician duties.

CHAPTER 12 ABSENCES TO PERFORM STATE ACTIVE DUTY

12-1. Appropriate Type Of Leave

a. Military technicians who are required to perform State Active Duty (SAD) may, at their discretion, elect any of the following types of leave to cover the absence.

- (1) Annual Leave (See Chapter 3)
- (2) Leave Without Pay (See Chapter 4)
- (3) Law Enforcement Leave (See Chapter 10)
- (4) Compensatory Time (See Chapter 13)

b. Under no circumstances will a technician use military leave, sick leave, or excused absence (administrative leave) to perform SAD.

c. If the hours available to an employee are insufficient to cover the hours used or requested,

charging the excess will be in accordance with the order of precedence matrix in Appendix A.

12-2. Charging Leave To Cover SAD

a. Effective 1 JUL 97, technicians will be required to take leave for the hours they are absent from work to perform SAD. There is no requirement to be in leave status when SAD is performed after normal technician working hours provided the following guidelines are strictly followed:

(1) State active duty must not conflict with the technician position in any way (i.e. start and stop times are not violated).

(2) The technician is receiving sufficient rest to ensure safe work practices.

b. There is no charge of leave when SAD is performed on nonworkdays or holidays.

c. It is the responsibility of the employee and the first line supervisor to ensure that there is no overlap of technician and SAD time or responsibilities.

12-3. Compensation For Injury

Technicians who suffer injury or death as a result of State Active Duty are eligible for employee's compensation benefits under the State Employees Compensation Act. The Adjutant General's State Business Administrator is the point of contact for all matters regarding the State Employees Compensation Act.

CHAPTER 13 COMPENSATORY TIME

13-1. Eligible Employees

All employees (permanent or temporary) regardless of work schedule (full time or part time) are eligible to earn and use compensatory time.

13-2. Earning Compensatory Time

a. Compensatory time off is time off from regularly scheduled work in lieu of compensation for overtime worked. Supervisors will insure that workweeks are scheduled so far as practicable to support peak workloads in order to minimize the requirement for compensatory time. Except in unusual situations, compensatory time to be worked should be scheduled at least one week in advance.

b. Accrued only in support of the activity/base/unit missions.

c. Compensatory time may be earned in quarter hour (15 minute) increments.

d. Compensatory time may be earned for time spent by technicians in a student status outside regular working hours and is considered as hours of work, provided the time spent in training is at the discretion of the training facility, and the purpose of the training is to improve the technician's performance. This would include class preparation time and classes held during weekends as long as such work is directed by the training facility. This includes technician training conducted at the National Guard Professional Education Center.

e. Work performed on holidays.

(1) A technician who works on a holiday falling outside his/her normal workdays may earn compensatory time for all hours worked.

(2) A technician who works on a holiday or "in lieu" of holiday falling on a regularly scheduled workday may not earn compensatory time.

(3) A technician who works on a holiday is credited with a minimum of two hours of work.

(4) Technicians will not be sent to training or be scheduled for training over a holiday, since 5 USC 4109 and 5 CFR 410.402 does not allow holiday premium pay during training. The only exception is if the training is not available at another time and "the total cost of the training, premium pay included, are less than the cost of training confined to regular hours." The Chief Administrative Officer, Group Commanders, and Directors may approve the exception in advance if both conditions are met and fully cost justified in writing. Supervisors will submit the approved justification through channels with their request for orders prior to the scheduled training.

13-3. Granting Compensatory Time Off

a. Air National Guard. AF Form 428, Request for Overtime, Holiday, Premium Pay, and Compensatory Time (see Appendix C) will be used to request advance approval of compensatory time as prescribed in AFM 177-372A, paragraph 1-9. Compensatory time will not be accrued in conjunction with military duty to include additional

flying training periods (AFTP). The approving official is the first line supervisor. In case of emergency a verbal approval from the approving supervisor will be acceptable if it is followed by an AF Form 428 with the T&A cards.

b. Army National Guard. NGB Form 46-14 (see Appendix C) will be used to request advance approval of compensatory time. The approving official is the first line supervisor. Compensatory time will not be accrued in conjunction with military duty to include additional flying training periods (AFTP). In case of emergency a verbal approval from the approving supervisor will be acceptable if it is followed by NGB Form 46-14.

c. Compensatory time off will not be granted before it is earned except as stated in paragraph 13-2.

d. Compensatory time must be taken within 26 pay periods from the pay period in which it was earned. There are no provisions for the restoration of forfeited compensatory time. Positive steps will be taken by supervisors and technicians to insure that accrued compensatory time is scheduled for use to avoid forfeiture. Compensatory time should be taken before annual leave, except in those instances where forfeiture of annual leave will occur.

e. The minimum charge for compensatory time off is one hour.

f. A technician in compensatory time off status is considered to be in status equal to annual leave.

g. If the hours available to an employee are insufficient to cover the hours used or requested, the order of precedence for charging the excess will be in accordance with the order of precedence in Appendix A.

13-4. Compensatory Time Earned During Travel

a. Per USC 5, Sec 5542 and 5 CFR 550.112 and 551.422, any time spent in a travel status away from the employee's official duty station is not hours of employment unless:

- (1) The time spent is within the regularly scheduled administrative hours of work during the normal workday or non-workday of the employee; or the travel involves the performance of work while traveling.

- (2) The work is carried out under arduous conditions, or results from an event, or travel to and from an event, which could not be scheduled or realistically controlled administratively.

b. When possible, if compensatory time is expected to be earned due to travel schedules, the supervisor should be informed in advance.

c. The examples below supplement Appendix E and are not all encompassing. Call the HRO for any questions when individual circumstances vary.

- (1) Individual travels out of state to attend a training session. He departs Sunday at 0800 and arrives at 1200. On return, the individual leaves Thursday at 1400 and arrives back at 2200. His administrative duty day is normally from 0730 to 1700. He is eligible for compensatory time on Sunday of departure for the full four hours but no time for Thursday since the time after 1700 was after his regular administrative work hours.

- (2) Same situation as above, but returns on Friday, departing 1400 and arriving 2000. For the return trip, he is due three hours of compensatory time since the travel time was conducted on a Friday. The individual is due the compensatory time for Friday travel, because, under a Comptroller General Decision (B-160258, 21 Nov 66), the employee is not entitled to per diem if he should remain until Monday; and thus, his travel time cannot be controlled realistically.

- (3) Same situation as above, but returns on Saturday, departing 1300 and arriving at 2000. For the return trip, he is due four hours of compensatory time for the time traveling during his regular hours of work, i.e., the actual travel time which falls within his regular work hours between 0730 and 1700. He is not due any compensatory time after 1700.

- (4) Same situation as above, but returns on Saturday, departing 0900 and arriving at 1400. For the return trip, he is due five hours of compensatory time for the time traveling during his regular hours of work, i.e., the actual travel time which falls within his regular work hours between 0730 and 1700.
- (5) Same situation as above, but on return on Saturday the airline is delayed due to a major snow storm and the individual does not make it back until 2300 Saturday. For the return trip, he is due fourteen hours of compensatory time since the travel time could not be realistically controlled due to unforeseen circumstances. Missing connecting flights because of airline maintenance or traffic problems are other examples that apply.
- (6) Same situation as above, but after departure Saturday the airline is delayed due to a major snow storm and the individual is stuck overnight at a connecting city. The airline puts the individual up overnight at no cost; the airline delivers him to the local hotel at 1800; he continues his travel at 1100 and makes it back 1400 Sunday. Per 5 USC 5542 and Comptroller General Decisions (B-160258, 21 Nov 66 and 57 Comp Gen 43, 1977), he is entitled to unusual waiting time but hours for eating and rest must be subtracted from the total time to determine compensatory time due. For the return trip, he is due twelve hours of compensatory time (0900 to 1800 and 1100 to 1400) since the travel time could not be realistically controlled.
- (7) Same situation as above, but the only airline that flies from the TDY location has one flight a day. The individual returns on Saturday, departing at 1200 and arriving at 1900. Since there are no other flights and the agency has no control over the airline's schedule, the individual is due seven hours of compensatory time.

13-5. Disposition Of Compensatory Time

Technicians are not entitled to receive a lump sum payment for accumulated compensatory time upon separation from technician employment. Compensatory time is forfeited upon separation.

CHAPTER 14

EXCUSED ABSENCE

14-1. Eligible Employees

All technicians are eligible for excused absence.

14-2. Administrative Discretion Authority

The authority to grant excused absences to technicians is within the administrative discretion of the Adjutant General. In addition to the more common situations listed below, technicians may also be authorized excused absence to perform acts or services in situations where the Adjutant General has determined that support of the activity would benefit the National Guard. The Adjutant General must approve requests for excused absence in situations that this regulation does not provide specific authority for supervisor approval. Such requests should be forwarded through channels to the Human Resources Officer.

14-3. Adjutant General Approval

The Adjutant General will determine whether the following situations are in the best interest of the National Guard:

a. **Civil Activities.** Technicians may be excused for short periods to participate in civil activities the federal government is interested in encouraging. Before granting excused absence, it will be determined that such participation is in the best interest of the Federal government (including the National Guard). These periods will be limited to no more than a combined total of 3 workdays during a calendar year. Official civil activities may include but are not limited to inaugurals, dedication of public buildings and projects, ceremonies for officially invited government visitors, and the convening of legislative bodies.

b. **Conferences or Conventions.** A technician may be excused to attend a conference or convention when it is determined that attendance will serve the best interest of the Federal service. Excused absence will not be granted to attend National Guard Association Conferences or gatherings where the purpose is not clearly in the best interest of the federal government.

c. Representing Labor Organizations. Refer to the appropriate Labor-Management Contract Agreement for details.

d. Absences for Permanent Change of Station (PCS) purposes. An employee may be excused for a reasonable time to make personal arrangements and to transfer personal business directly related to a PCS which is in the interest of the US Government, provided that such business or arrangements cannot be transacted outside the employee's regular working hours.

e. Participation in Funerals. Excused absence may be granted to Technicians, including Temporary Technicians, for up to 4 hours in any one day while performing in State Active Duty Without Pay status as pallbearers or as members of firing squads in funeral ceremonies for members or former members of the Armed Forces, including the National Guard (5 USC 6321).

14-4. Supervisor Approval

The provisions of current labor-management agreements take precedence over the conditions stated below. Supervisors are authorized to make individual determinations that the following acts or services are job related and not chargeable to leave and to place reasonable limits on the length of such absences from normal assignments within the following guidelines:

a. Blood Donation. Technicians are encouraged to serve as blood donors and will be excused from work without charge to leave only for the time necessary to donate the blood, for recuperation following blood donation, and for necessary travel time to and from the donation site. The maximum excused time will not exceed 4 hours on the date of blood donation.

b. Registration and Voting. Technicians may be excused for a reasonable time to vote or register to vote in federal, state, county, or municipal elections or in referendums on any civic matter in their community provided such absence does not seriously interfere with operations. Employees are expected to vote prior to the start or after the end of the workday. However, should an employee, because of time/distance to voting locations or an unusually large turn out, may be excused time up to three hours to get to voting polls when they are open.

c. Tardiness and Brief Absences. Tardiness and brief absences of less than 1 hour may be excused when reasons are adequate.

d. Physical Examinations. This applies to examinations required as a condition to employment as a technician of the NH National Guard. Technicians will be excused, without charge to leave or loss of pay, for periodic, baseline, or annual physical examinations as required by HRO and safety. Administrative leave is not authorized for physical examinations required for military membership taken during regularly scheduled tour of duty hours for the convenience of the employee.

e. Continuation of Pay, Federal Employees' Compensation Act. When an employee sustains a traumatic job-related injury and files a Worker's Compensation claim, the employing agency is required to continue the employee's pay for the period of disability, not to exceed 45 calendar days. Continuation of pay is chargeable as excused absence.

f. Credit Union Participation. Technicians who serve on Federal Credit Union Boards and committees on a voluntary basis, without compensation, may be granted excused absence to participate in associated meetings. The amount of excused absence for this purpose is limited to 4 hours per month. Technicians who are Credit Union members may be granted excused absence not to exceed one hour to attend the annual Credit Union meeting.

g. Bone Marrow or Organ Donor. A technician is entitled to excused absence for the time necessary to serve as a bone marrow or organ donor. Excused absence for this purpose may not exceed 7 days in a calendar year.

h. Employee Interviews. A technician may be excused when competition is for a position within the NH National Guard or the individual is under notice of separation or change to lower grade for any reason except for personal cause. All other employment interviews will be charged to annual leave. Authorization to develop or deliver a job application to HRO or any personnel office is not an excused absence.

i. Employee Assistance Program (EAP). A technician is entitled to excused absence for the time required to participate in initial counseling and assessment for EAP, not to exceed 3 hours annually.

If the technician is referred for treatment or assistance the technician must be in an appropriate form of leave status.

14-5. Time Off Awards.

A Time Off Award is an excused absence granted to technicians without charge to leave or loss of pay for recognition purposes. Since excused absence may not be used to perform military duty, technicians may not use Time Off Awards to perform military duty of any variety (federal or state).. See para 3-4, NHNG TPR 451 for additional information.

CHAPTER 15 COURT LEAVE

15-1. Eligible Employees

Court leave for jury duty is granted to both permanent and temporary employees, both full time and part time, except those employed on an intermittent basis.

15-2. Earning Of Court Leave

Court leave is the authorized absence, without charge to leave or loss of pay, of an employee from work status for jury duty, or for attending judicial proceedings in a non-official capacity as a witness on behalf of any party to which the United States, state, or local government is a party. The term “judicial proceeding” means any action, suit, or other proceeding of a judicial nature, but does not include an administrative hearing.

15-3. Duration Of Court Service

An employee who is under proper summons from a court should be granted leave of absence with pay for the entire period of court service, regardless of the number of hours per day or days per week he serves during the period.

15-4. Interim Excuse From Court Service

Supervisors may require an employee entitled to court leave to return to duty or be charged with annual leave if he is excused from court service for one day or even a substantial part of a day. The employee may not, however, be required to return to duty if it would create a hardship.

15-5. Jury Fees

When in a court leave status technicians must forward fees collected to their payroll office. The technician is permitted to keep travel and per diem allowance for each day’s attendance in court. Failure to forward fees collected will result in a charge to leave. Any

fees earned on non-workdays may be kept by the technician.

15-6. Witness Status

a. Witness in official capacity. When a technician is summoned or assigned by his agency to testify in his official capacity or to produce official records, he is in an official duty status and entitled to his regular compensation without regard to any entitlement to court leave.

b. Witness in nonofficial capacity.

(1) If the United States, state, or local government is a party in the judicial proceedings, court leave is appropriate regardless if the employee testifies on behalf of the government or a private party.

(2) When the United States, state, or local government is not a party in the judicial proceedings, annual leave or leave without pay is appropriate.

15-7. Evidence Of Court Service

A copy of court orders, subpoenas, summons, or official request to appear in court will be presented to the supervisor as far in advance of the court day as possible. Upon return to duty, the technician will submit written evidence from the court reflecting dates (and hours if possible) of his attendance in court. Appropriate notations will be made on the time and attendance report for the days/hours of court leave granted to the technician while he was absent from his regularly scheduled duties.

15-8. Court Leave Guide

A chart indicating the proper time and attendance recording for employee absences under varying conditions with court or court-related services, together with rights of employees to fees for services rendered and to payment for expenses of travel is provided in Appendix F of this regulation.

CHAPTER 16 ABSENCE WITHOUT LEAVE

16-1. Charging Absence Without Leave

a. Absence without leave (AWOL) is defined as an absence from duty (i.e., tardiness or leaving the work area) which has not been authorized or approved by the proper official in accordance with this regulation. Pay is denied for the entire period of

absence. When it is determined that the absence is excusable the charge of AWOL may be changed. The absence may be charged to any appropriate form of leave. The supervisor must determine whether or not the circumstances warrant a change to approved leave.

b. When an employee is charged with AWOL the agency may not require him to perform work for any part of the period for which pay will not be received.

c. Incidents of unauthorized absence may be made a basis for disciplinary action in accordance with TPR 752.

16-2. Minimum Charge

The minimum charge of AWOL is one hour and additional charges of AWOL will be in multiples of one hour.

CHAPTER 17 ADMINISTRATIVE CLOSINGS

17-1. General.

All technicians are to presume, unless otherwise notified, that their office or activity will be open each regular workday regardless of any weather or other emergency conditions that may develop. Normally they are expected to be prepared to cope with difficult driving conditions. On occasion, emergency situations arise which are beyond the control of management or employees and which prevent technicians from getting to work, or create the necessity to dismiss them early in certain areas.

17-2. Emergency Situation Defined.

For the purpose of this regulation, an emergency situation is one which may prevent technicians in significant numbers from reporting to work, or may necessitate the closing of our facilities, in whole or in part. The emergency situation must be general rather than personal in scope and impact. It may be caused by such developments as heavy snow or severe icing conditions, floods, earthquakes, hurricanes, or other natural disasters; air pollution, massive power failure, major fires or other manmade disasters. Usually, significant emergency situations, of the scope and impact reflected in this regulation will be the subject of a public declaration of emergency or disaster by the appropriate State authority.

17-3. Employees Providing "Critical" Service.

It must be recognized that there are certain critical operations that cannot be suspended or interrupted even though it may be necessary to excuse most employees for all, or part of a workday. To avoid confusion, it is important that all supervisors identify those employees who perform duties that are critical to their operation, and who are required to be at work regardless of emergency situations or any dismissal authorization. These employees should be made aware, preferably in writing, of the special requirements placed on them for reporting to, or remaining at their worksites in emergency situations.

17-4. Determination That An Emergency Condition Exists.

Conditions may exist that are potentially severe or may adversely affect the ability of technicians to perform duty. Severe weather conditions, severe weather forecasts, or rising flood waters have the probability to disrupt work or pose hazardous driving conditions for technicians.

a. The Army Command Administrative Officer (CAO) has the authority to dismiss ARNG personnel on the State Military Reservation in Concord and, at other ARNG locations, the local senior full time supervisor has the authority to dismiss ARNG personnel under this paragraph. Where an armory and OMS are collocated, the most senior full time supervisor will have the dismissal authority for emergency conditions. Otherwise, armory OICs are the senior full time supervisors with dismissal authority. Senior full time supervisors will notify the Command Administrative Officer who keeps the Adjutant General informed when this authority is exercised. All individuals will be dismissed except those performing critical service (para 17-3). Reservation and unit personnel will be notified by telephone through their applicable supervisory chain. All supervisors have the authority to excuse late arrivals, when deemed reasonable under prevailing conditions. Supervisors will establish how to communicate armory closings to all subordinate personnel.

b. The Air Commander at Pease ANG Base has been delegated the authority for dismissal of ANG technician personnel located there. Whenever Pease ANG Base announces a closure or dismissal of non-essential Base personnel, all technicians, except those designated (para 17-3), will, upon arrival of the Air Commander, also be considered dismissed. Supervisors will establish how to communicate base closing to all subordinate personnel. The Air

Commander will notify the Adjutant General of his decision. Dismissal instructions will be transmitted by telephone to all major supervisors affected.

17-5. Leave Treatment of Technicians During Declared Emergency Conditions.

During emergency situations, emphasis will be placed on ensuring that all full time personnel are treated equitably. The decision on the impact of the situation will depend on whether the emergency condition arises during working or non-working hours.

a. During working Hours. An emergency condition arising during the normal workday presents the following two alternatives for the deciding official:

(1) National Guard activities should remain open as normal.

(2) National Guard activities should suspend work to the extent feasible and all personnel except those providing critical services (para 17-3) should be dismissed immediately.

b. Whether an employee should or should not be charged leave for an absence depends upon his/her duty status at the time of dismissal, determined as follows: (Note: Earned compensatory time off may be used, as appropriate, in lieu of leave):

(1) If he/she was on duty and was excused, there is no charge to leave for the remaining hours of the work shift following excusal.

(2) If he/she was on duty and departed on annual leave before the time set for dismissal, leave is charged only from the time departed until the time set for dismissal. (Employees should not be permitted to depart before the time set for dismissal without a charge to annual leave).

(3) If he/she was absent on approved leave for the entire work shift, the entire absence is charged to the leave status existing at the time.

(4) When hazardous conditions arise outside of normal duty hours and therefore, result in the closure of activities, the ground rules are quite different; workdays on which Federal offices are closed are nonworkdays for leave purposes. Excused absence (administrative leave), will be authorized for all employees on these days, even if they were on scheduled annual or sick leave. This does not apply

to employees in a nonpay status on the days immediately before and after the days the activity is closed.

(5) When a delayed opening of facilities is announced, excused absence (administrative leave) is authorized for certain employees. Employees who report to work at the announced starting time will be placed on administrative leave for the delayed opening period only. Employees who did not report to work at all due to pre-approved annual, sick leave, or other leave, or due to severe inclement weather, shall be charged the appropriate leave for the entire day. Any employee who reported to work at the regularly scheduled start time, or prior to the delayed opening time, is not entitled to any additional compensatory time-off for that period.

(5) During times of heavy inclement weather or other emergencies, supervisors should follow a liberal leave policy, subject to mission requirements.

CHAPTER 18 HOLIDAYS

18-1. Eligible Employees

All technicians are eligible to receive basic pay for holidays. All technicians who are required to work on holidays are entitled to holiday premium pay.

18-2. Federal Holidays

The following are holidays for the purpose of pay National Guard technicians:

New Years Day - First day of January

Martin Luther King's Birthday - Third Monday in January

President's Day - Third Monday of February

Memorial Day - Last Monday of May

Independence Day - Fourth day of July

Labor Day - First Monday of September

Columbus Day - Second Monday of October

Veterans Day - Eleventh day of November

Thanksgiving Day - Fourth Thursday of November

Christmas Day - Twenty-fifth day of December

Any other day designated as a holiday by Federal Statute or Executive Order.

18-3. *Determining Holidays*

- a. When a holiday falls on a day that an employee is regularly scheduled to work under a compressed work schedule, the scheduled workday is the employee's holiday.
 - (1) If the employee is covered by a compressed work schedule, the employee's holiday will comprise the number of hours the employee is regularly scheduled to work that day.
 - (2) A Technician who is required to work on a regularly scheduled workday that is a holiday receives holiday premium pay for working on the holiday and is not entitled to an in lieu of holiday. If the Technician is covered by a compressed work schedule, the Technician is entitled to holiday premium pay for the number of hours he or she is regularly scheduled to work that day.
- b. When a holiday falls on a nonworkday for an employee covered by a compressed work schedule and:
 - (1) The holiday falls on Sunday, the first regularly scheduled workday following the Sunday holiday is the employee's in lieu of holiday, i.e., holiday is Sunday, the in lieu of day is Tuesday.
 - (2) The holiday is not a Sunday, the last regularly scheduled workday preceding the holiday is the employee's in lieu of holiday, i.e., holiday is Saturday or Monday, the in lieu of day is Friday.

18-4. *Holiday Pay*

a. Technicians receive their regular straight-time pay for holidays that they are not required to work. When the activity is closed on a Friday or Monday because of a holiday falling on Saturday or Sunday, such closed days are not considered holidays in determining holiday benefits for part-time technicians, but these technicians may be excused without charge to leave for such days.

b. If a technician works on a holiday falling on one of his regular work days or on a holiday falling on the day designated as his "in lieu of holiday" he

will be paid at twice his regular rate for not more than the number of hours in the employee's regularly scheduled tour of duty. If the technician is required to work more than the number of hours in his/her regularly scheduled tour of duty, that employee is authorized compensatory for all hours worked in addition to his/her regularly scheduled tour of duty.

c. Technicians who are normally eligible for basic pay for a holiday when no work is required will not be paid when:

(1) The technician fails to report for duty after being directly notified that his services would be required on the holiday and an acceptable reason is not provided for the absence.

(2) The holiday falls within a period of nonpay status (a holiday that falls on the first or last day of an authorized period of LWOP is within the nonpay period and payment is not authorized. If the date of the holiday is not included in the period of nonpay status, payment for the holiday is authorized).

(3) The technician was AWOL on the regularly scheduled workday immediately preceding the holiday.

d. Travel which is performed within the regularly scheduled duty hours on a holiday or on a day designated as the "in lieu of" holiday is not compensatory time earned. Required travel within regularly scheduled duty hours on a holiday will be compensated by premium pay.

e. Army. All requests for holiday premium pay will be submitted using TAGNH Form 690-900d from the supervisor through channels to the Human Resources Officer prior to performance of such duty.

e. Air. All requests for holiday premium pay will be submitted using AF Form 428 from the supervisor through channels to the Human Resources Officer prior to performance of such duty.

CHAPTER 19 ENFORCED LEAVE

19-1. *Eligible Employees*

All employees are subject to the provisions of enforced leave.

19-2. *Imposing Enforced Leave*

a. Management has the right to require a technician to leave the worksite when:

(1) The technician is not ready, willing, and able to perform assigned duties; or

(2) The technician's continued presence is highly undesirable because the employee presents an immediate threat to himself, others, or government property.

b. A technician must never be instructed to leave the worksite if the individual's ability to drive is questionable. In such cases the supervisor must arrange for a family member or co-worker to transport the technician.

c. The following examples are given to illustrate management's right to enforce leave.

(1) A technician reports to work without required safety equipment (i.e. safety boots). The technician is not ready, willing, and able to work. The supervisor may place the technician on annual leave, compensatory time, or LWOP until the employee reports back to work with the required safety equipment.

(2) A technician appears for work in what the supervisor reasonably determines to be an unsafe state due to illness, alcohol abuse, medication, controlled substance abuse, or other causes. Attempts to have the technician explain the condition are unsuccessful. The supervisor determines that the technician's continued presence creates an immediate threat to government property, the technician, and/or fellow co-workers. The supervisor gives the technician an option of being taken home or to a family physician or having a family member called. If the technician refuses to choose or is unable to choose, the supervisor selects the best alternative. When the technician reports to work the next day, the supervisor tells the employee that unless there is a reasonable explanation, the leave status for the non-duty time will be LWOP. If there is a reasonable explanation (for example, reaction to new medication that can be supported by a doctor's statement), the supervisor can give the technician the option of using annual leave, compensatory time off, or sick leave. The technician is then advised that no further action will be taken or that the incident is still being appraised and disciplinary or adverse action could result.

(3) A technician is in a rage, disrupting the entire shop (throwing objects and cursing). Attempts to calm the technician are rebuked. The supervisor determines the technician's continued presence would be highly undesirable. The technician is told he/she is being placed in LWOP status and to immediately leave the worksite and return when calmed down. The technician regains composure and reports to work the next day. The supervisor tells the technician that unless there is reasonable explanation, the LWOP status from the previous day will not be changed. If the explanation alters the supervisors position on the LWOP (for example, technician first learned of a family member's serious illness), the technician can be offered the option of taking appropriate leave. The technician is advised that no further action will be taken or that the incident is still being appraised and disciplinary or adverse action could result.

d. If the hours available to an employee are insufficient to cover the hours used or requested, the order of precedence for charging the excess will be in accordance with the order of precedence matrix in Appendix A.

19-3. Termination Of Enforced Leave.

Enforced leave must be terminated as soon as management determines that the technician is ready, willing, and able to perform assigned duties or that the immediate emergency is resolved.

APPENDIX A

If the hours available to an employee are insufficient to cover the hours used or requested, the order of precedence for charging the excess is as follows:

TYPE OF HOURS USED OR REQUESTED	COMP TIME	ANNUAL LEAVE WITH USE OR LOSE	ANNUAL LEAVE WITH NO USE OR LOSE	RESTORED LEAVE (OLDEST ACCOUNT FIRST)	LEAVE WITHOUT PAY	DONATED LEAVE FOR FAMILY	DONATED LEAVE FOR EMPLOYEE	REINSTAT ED LEAVE
ANNUAL LEAVE	1			2	5	4		3
SICK LEAVE	2	1	5	3	7		6	4
COMP TIME		1	4	2	5			3
MILITARY LEAVE	2	1	5	3	6			4
RESTORED LEAVE*	2	1	4		5			3
TRAUMATIC INJURY (COP)					1			
LAW ENFORCEMENT LEAVE	2	1	5	3	6			4
REINSTATED LEAVE	2	1	4	3	5			
TIME OFF AWARDS**	2	1	5	3	6			4
*All restored leave account balances will be used prior to converting to annual leave.								
**This conversion occurs if the payroll office has not received notification of the granting of the award within two pay periods after the usage.								

Order of Precedence Matrix

APPENDIX B

Biweekly Pay Period	Hourly Accrual Rate		
Workdays	Category 4*	Category 6	Category 8
1	1	1	1
2	1	1	2
3	1	2	2
4	2	2	3
5	2	3	4
6	2	4	5
7	3	4	6
8	3	5	6
9	3	5	7
10	4	6	8
*This column may be applied for sick leave purposes.			

Leave Proration for Fractional Pay Periods

APPENDIX C
BLANK FORMS

This Appendix is a compilation of blank forms needed for leave administration as referenced in this regulation. These forms may be reproduced locally. Blank forms included in this Appendix are as follows:

1. Optional Form 630, Leave recipient application under the Voluntary Leave Transfer Program.
2. Optional Form 630-A, Request to donate annual leave to leave recipient (within agency) under the leave transfer program.
3. Optional Form 630-B, Request to donate annual leave to leave recipient (outside agency) under the leave transfer program.
4. AF Form 428, Request for overtime, holiday premium pay, and compensatory time.
5. NGB Form 46-14, Request, authorization, and report of compensatory time.
6. TAGNH Form 600-900d, Request for Overtime, Holiday Premium Pay and Compensatory Time.
7. Certification of Health Care Provider Form (Family and Medical Leave Act of 1993).

APPENDIX D TYPE HOUR CODES

This Appendix is a compilation of time and attendance codes for use in the NH National Guard. It appears in five subdivisions: Leave Hours - Paid, Leave Hours - Nonpaid, Compensatory Hours, Representational Hours and Pay Type Hours.

CODE DEFINITIONS

1. LEAVE HOURS PAID

LA - Annual Leave. This code can also be used to advance annual leave. If the organization has blanket leave authorized, A "3" is set in the blanket leave advance indicator of the organization record or if an employee has a preauthorized advanced advance leave amount, a "2" is set in the blanket leave advance indicator. This code when used with an injury number will be counted as one (1) day of COP.

NOTE: For employees on donated leave for "family", this code must be input and the system will convert to donated.

LB - Advanced Annual Leave. This code is used if an activity has approved advanced annual leave coming in on the timecard. A "1" is set in the blanket leave advance indicator of the organization record.

LC - Court leave.

LF - Forced Annual Leave. The usage of this code is the same as for regular annual leave (code LA). This code gives management the option of distinguishing between annual leave directed to be taken (enforced leave) and annual leave used at the request of the employee.

LG - Advanced Sick Leave.

LH - Holiday Leave.

LL - Law Enforcement Leave.

LM - Military Leave.

LN - Administrative Leave.

LP - Restored Annual Leave Account #3. If the employee's annual leave balance is insufficient to cover reported annual leave and restored annual leave accounts #1 and #2 are insufficient, the system will default to this code. At the end of the leave year any remaining balance will be moved to leave code LQ.

LQ - Restored Annual Leave Account #2. If the employee's annual leave balance is insufficient to cover reported annual leave and restored annual leave

account #1 is insufficient, the system will default to this code. At the end of the leave year any remaining balance will be moved to leave code LR.

LR - Restored Annual Leave Account #1. This is the oldest account in the employee's leave record and is the account that will be defaulted to when the annual leave balance is insufficient to cover annual leave reported via time and attendance. At the end of the leave year of forfeiture, any balance remaining in this account will be forfeited and cannot be restored again.

LS - Sick Leave. This code can also be used to advance sick leave if employee has preauthorized amount set in master leave history record and no sick leave is available. This code when used with an injury number will be counted as one (1) day of COP.

NOTE: For employees on donated leave for "self" this code must be input and the system will convert to donated.

LT - Absence because of a traumatic injury covered under the provisions of continuation of pay (COP). Requires injury number (MMDD). Do not use on date of injury. (see LU)

LU - Date Of Injury. Hours of nonwork due to traumatic injury, chargeable to administrative leave. Do not use after date of injury. (See LT) do not use injury number. May be reported without hours if applicable.

LV - Excused absence on a regularly scheduled workday such as excused absence due to tardiness. Employee may be excused for tardiness under Title 5, but the period excused is not included under FLSA.

LX - Periods of nonwork which are payable under Title 5 such as date of death, or sabbatical. If employee status code equals "V" for sabbatical leave, T & A will generate this code. If generated, this code may not be overridden.

LY - Time Off Award (leave) given in lieu of cash award (up to 80 hours per year).

2. FAMILY AND MEDICAL LEAVE:

Act of 1993 (Public Law 103-3) Eligible employees are entitled to a total of 12 administrative workweeks during a 12 month period. The following leave codes are used in conjunction with Leave Without Pay (KA), Annual Leave (LA), Advanced Annual Leave (LB), Sick Leave (LS), Advanced Sick Leave (LG), with prior approval:

DA - Birth of son/daughter or care of newborn

DB - Adoption or foster care.

DC - Care for spouse, son, daughter, or parent with a serious health condition

DD - Serious health condition of employee

These codes, DA, DB, DC, DD, will be reported in the ENV/HAZ/OTH field. This leave should not be confused with the Friendly Family Leave Act (Public Law 103-388).

3. LEAVE HOURS - NONPAID

KA - Leave Without Pay. If the employee status code equals "L" for extended LWOP, T&A will generate this code. If generated, this code may not be overridden.

KB - Suspension. If the employee status code equals "B" for suspension, T&A will generate this code. If generated, this may not be overridden.

KC - AWOL

KD - OWCP. Employee is in a nonpay status due to receiving compensation from the office of Worker's Compensation programs. If employee status code equals "W" for extended OWCP, T&A will generate this code. If generated, this code may not be overridden. Leave is accrued/prorated in accordance with the FPM. These nonpay hours are not included in the nonpay hours used for leave accrual reduction or counted in the hours of nonpay used for within grade increases.

KE - Furlough - Lack of Work. If employee status code equals "F" for furlough, T&A will generate this code. If generated, this code may not be overridden.

KG - Military Furlough. If employee status code equals "M" for military furlough, T&A will generate this code. If generated, this code may not be

overridden. Leave is accrued/prorated in accordance with the FPM. These nonpay hours are not included in the nonpay hours used for leave accrual reduction or counted in hours of nonpay used for within grade increases.

4. COMPENSATORY HOURS

CC - Compensatory time callback. Input at the actual time worked. If less than the 2 hour minimum, the system will calculate the difference between actual time and 2 hours for pay purposes as applicable and will record 2 hours to the compensatory time balance.

CE - Compensatory time earned.

CT - Compensatory time taken.

5. REPRESENTATIONAL HOURS

BA - Negotiations

BD - Labor/management relationship

BK - Grievance and appeals

Official time allotted employees for union and other representational functions and will be reported in the (ENV/HZ/OTH) field as an exception through timecard format 1 and the SDA. These hours will be returned to personnel via the reverse interface.

6. PAY TYPE HOURS

RG - Straight time pay for graded employees regardless of scheduled hours worked.

RF - Straight time pay for ungraded employees who work first shift.

RS - Straight time plus 7.5% shift pay for ungraded employees who work second shift.

RT - Straight time plus 10% shift pay for ungraded employees who work third shift.

RX - Regular - Emergency time. May be input for employee when situation precludes receipt of actual T&A. May be input on the local holiday table for all of the payroll office, an activity, or an organization.

HC - Holiday work callback during regularly scheduled work hours. The actual time worked must be entered to ensure correct calculation of pay. The system will determine the difference between the actual time worked on callback and the two hour minimum entitlement under Title 5 and will pay

accordingly. The system will default to the shift code assigned unless a temporary shift override is input.

NOTE - If an employee is scheduled to work on a Sunday, which is also the employee's holiday, the holiday pay type code (H) is input in lieu of the Sunday pay type code(s). The system will pay both the Sunday and the holiday.

HG - Holiday pay for graded employees who work on the holiday.

HF - Holiday pay for ungraded first shift employees who work on the holiday.

HS - Holiday pay plus shift differential for ungraded second shift employees who work on the holiday.

HT - Holiday pay plus shift differential for ungraded third shift employees who work on the holiday

APPENDIX E – Table 1
Home To Work Travel as “Hours of Work” Under FLSA

Kind of Travel Involved:	Is Travel Time “Hours of Work”?
<u>A. Home to Work – Normal Situation</u>	
Normal home to work (work to home) travel	No
Employee <u>drives</u> a Government vehicle home (<u>as a requirement</u> of the employing agency) to respond to emergency calls immediately from his/her home.	Yes <u>1</u> /
Employee <u>drives</u> a Government vehicle home (<u>as a requirement</u> of the employing agency) to transport other employees home to work (or job site).	Yes <u>1</u> /
Employee reports at a designated meeting place and drives a vehicle (<u>as a requirement</u> of the employing agency) to transport other employees to a job site.	Yes <u>2</u> /
Employee reports at a designated meeting place and is transported (as a <u>passenger</u>) by Government vehicle to a job site.	No
Employee reports at a designated meeting place (receives instructions, performs other work, <u>or</u> picks up and carries tools) and is transported (as a <u>passenger</u>) by Government vehicle to a job site.	Yes <u>2</u> /
<u>B. Home to Work – Emergency Situation</u>	
Employee (at home) receives an emergency call outside regular working hours to return (travel) to normal duty location (or another job site <u>within the limits of the official duty station</u>).	No
Employee (at home) receives an emergency call outside regular working hours to return (travel) to temporary duty station (<u>outside the limits of the official duty station</u>) and the distance traveled is greater than normal home to work travel.	Yes <u>3</u> /

1/ All time spent driving the vehicle home to work (work to home) is hours worked.

2/ The travel from home to the designated meeting place (and return) is normal home to work travel. However, the performance of work or other activity which is an integral part of the employee’s job (e.g., picking up tools or receiving instructions) at the designated meeting place constitutes the commencement of the employee’s workday. All subsequent travel (to a job site and return) is hours worked.

3/ If the distance to the temporary duty location (outside the limits of the official duty station) is in excess of the distance from the employee’s home to the normal duty location, the entire time spent travelling from the employee’s home to the temporary duty location and return is hours worked. Conversely, if the distance to the temporary duty location is equal to or less than the distance from the employee’s home to normal duty location, the time spent travelling to the temporary duty location and return is not hours worked.

APPENDIX E – Table 2

**Travel Within the Limits of the Official Duty Station
as “Hours of Work” Under FLSA 1/**

<u>Kind of Travel Involved:</u>	<u>Is Travel Time “Hours of Work”? 2/</u>	
	<u>During Regular Working Hours</u>	<u>Outside Regular Working Hours 3/</u>
<u>From</u> home directly <u>to</u> job site before regular working hours	NA	No 4/
<u>From</u> normal duty location <u>to</u> job site	Yes	Yes
<u>From</u> job site <u>to</u> job site	Yes	Yes
<u>From</u> job site <u>to</u> normal duty location	Yes	Yes
<u>From</u> job site directly <u>to</u> home after regular working hours	NA	No 4/

NOTE: For purposes of this table, the term “job site” means a duty location within the limits of the official duty station other than the employee’s normal duty location.

1/ These rules apply to travel either as a driver of a vehicle or as a passenger in a vehicle within the limits of the official duty station during the same day.

2/ Normal home to work (work to home) travel and bona fide meal periods are not included in hours worked.

3/ For travel time outside regular working hours to be compensable under this basic principle, the time spent traveling must be continuous with and serve to extend the employee’s regular tour of duty.

4/ Travel from home directly to a job site within the limits of the official duty station is viewed as normal home to work travel. The same applies for travel from a job site directly to the employee’s home after regular working hours.

APPENDIX E – Table 3

**Work Performed While Traveling
Away From Official Duty Station
as “Hours of Work” Under FLSA 1/**

<u>Kind of Travel Involved:</u>	Is Travel Time “Hours of Work”? 1/
Driver of an automobile, truck, bus, or other vehicle	Yes
Pilot of an airplane, helicopter, or other aircraft	Yes
Pilot of a boat, barge, or other vessel (<u>not</u> subject to the seaman exemption)	Yes
Assistant driver or crewmember assisting in the operation of a vehicle, aircraft, or boat	Yes
Passenger riding in a vehicle (<u>not</u> otherwise entitled to hours worked for travel as a passenger)	No <u>2/</u>
Any other employee required to perform work while traveling; e.g.,	Yes
- Courier carrying classified documents	
- Guard escorting a prisoner	
- Security specialist guarding classified or valuable equipment in transit	

1/ Bona fide meal periods are deducted from hours worked. Under certain conditions sleeping periods or periods when an employee is relieved from duty are not included in hours worked (see para E1 of this table).

2/ If a passenger shares the driving of a vehicle with the driver, each is considered to be performing work while traveling only for that portion of the trip during which he/she is actually driving the vehicle.

APPENDIX E – Table 4

**Travel as a Passenger on a One-Day Assignment
Away From Official Duty Station
as “Hours of Work” Under FLSA 1/**

Is Travel Time Outside Regular
Working Hours “Hours of Work”? 2/

Kind of Travel Involved:

A. Travel by Common Carrier

Travel time from <u>home</u> to common carrier <u>terminal</u>	No <u>3/</u>
<u>Normal waiting time</u> at the terminal prior to scheduled departure time of the common carrier	Yes <u>4/</u>
Travel time from scheduled departure time from the <u>terminal</u> to arrival time at the <u>terminal</u> at point of destination	Yes
Usual waiting time which interrupts travel	Yes <u>5/</u>
Travel time from <u>terminal</u> at point of destination to <u>temporary duty station</u>	Yes

B. Travel by Automobile

Travel time from <u>official duty station</u> to <u>temporary duty station</u>	Yes
Travel time from <u>home</u> directly to <u>temporary duty station</u>	Yes <u>6/</u>

(The same rules apply for travel time and waiting time on the return trip from the temporary duty station to the employee’s official duty station or directly to the employee’s home.)

NOTE: For purposes of this table, the term “temporary duty station” means a duty station outside the limits of the employee’s official duty station.

1/ All travel time during regular working hours (excluding bona fide meal periods) is hours worked.

2/ Bona fide meal periods are deducted from hours worked.

3/ Since, except for the one-day assignment, the employee would have had to report to his/her normal duty location, the travel time between the employee’s home and the common carrier terminal is not included in hours worked. However, if (1) the common carrier terminal is located outside the limits of the official duty station and (2) the employee’s travel time from home to common carrier terminal is in excess of normal home to work travel, the employee shall be credited with the excess travel time as hours worked.

4/ Normal waiting time at the terminal from designated predeparture time until scheduled departure time of the common carrier is hours worked. Any waiting time in excess of normal waiting time is not hours worked.

5/ When an employee travels to an intervening common carrier terminal and has to wait for a connecting flight to continue traveling to a temporary duty station, the usual waiting time at the intervening common carrier terminal is normal waiting time and is hours worked.

6/ The employee shall be credited with the lesser of (1) the actual hours worked for the time spent traveling to the temporary duty station (excluding normal home to work travel), or (2) the estimated hours worked for such travel had the employee traveled directly from official duty station to the temporary duty station.

TRAVEL AS A DRIVER OF A PASSENGER VEHICLE TO A TEMPORARY DUTY STATION
AS "HOURS OF WORK" UNDER FLSA

TABLE 5: Travel as a Driver on a One-Day Assignment (to and return from a temporary duty station during the same day)

<u>If</u> an employee drives A vehicle: 1/	<u>and, if:</u>	<u>is</u> the travel time outside regular working hours "hours of work"? 2/
<u>From</u> home directly To TDY station/ job Site	The job site is located within the limits of the official duty station	No
	The TDY station is located outside The limits of the official duty station	Yes 3/
<u>From</u> a TDY station/ job Site directly to his/her Home	The job site is located within the limits of the official duty station	No
	The TDY station is located Outside the limits of the Official duty station	Yes 3/

TABLE 5: Travel as a Driver That Keeps an Employee Away from Official Duty Station Overnight

TABLE 5A: Travel to the First Temporary Duty Station (and Return from the Last Temporary Duty Station) 4/

If an employee drives a vehicle: 1/	Is the travel time outside regular working hours "hours of work"? 2/
From home directly to TDY station	Yes 3/
From home directly to temporary lodging	No
From a TDY station directly to his/her home	Yes 3/
From temporary lodgings directly to his/her home	Yes

1/ In contrast to home to work situations covered herein, it should be noted that if an employee drives a vehicle from his/her official duty station directly to a TDY station (or from the (1st) TDY station directly to a subsequent TDY station), the travel time is hours worked regardless of whether the TDY station (job site) is located within or outside the limits of the official duty station. The same rule applies for the return trip.

2/ All travel time as a driver of a vehicle during regular hours is hours worked.

3/ The employee shall be compensated for the time spent driving which is in excess of normal home to work travel. (Note: This deduction of normal home to work travel from the total travel time involved is appropriate only when the home to work portion of the travel is performed outside the regular working hours, which also means outside corresponding hours on non-work days.)

TABLE 5B: Travel to a Second (or Subsequent) Temporary Duty Station(s)

If an employee 1/ Drives a vehicle	and if the (2d) TDY Station is located	and, if the employee:	is the travel time outside regular hours “hours of work”? 2/
From (1 st) temp- Orary lodgings To (2d) TDY Station/job site	Within limits of (1 st) TDY Station	N/A	No
	outside limits of (1 st) TDY station	returns to (1 st) TDY station same day	Yes 5/ 6/
		remains overnight At (2d) TDY station	Yes 5/ 7/
From (1 st) temp Orary lodgings to (2d) Temporary Lodgings	within limits of (1 st) TDY station	N/A	No
	outside limits of (1 st) TDY station	Remains overnight at (2d) TDY station	Yes
From (1 st) TDY Station to (2d) Temporary lodgings	within limits of (1 st) TDY station Outside limits of (1 st) TDY station	N/A remains overnight at (2d) TDY station	No

APPENDIX F

Employee Absences for Court or Court-Related Services

Nature of Service	Type of Absence			Fees			Government Travel Expenses	
	Court Leave	Official Duty	Annual Leave or LWOP	No	Yes		No	Yes*
					Retain	Turn in to Agency		
I. JURY SERVICE								
A. U.S. or D.C. Court	X			X			X	
B. State or local Court	X					X	X	
II. WITNESS SERVICE								
A. On Behalf of U.S. or D.C. Government		X		X				X
B. On Behalf of State Or local Government:								
1. Official Capacity		X				X		X
2. Non-Official Capacity	X					X	X	
C. On Behalf of a Private Party:								
1. Official Capacity		X				X		X
2. Non-Official Capacity:								
a. When Party is U.S., D.C. or State Or local Government	X					X	X	
b. When Party is not U.S., D.C. or State Or local Government			X		X		X	

*- Offset to the extent paid by the court, authority or party which caused the employee to be summoned.